

# Prison Rape Elimination Act (PREA) Audit Report Lockups

Interim     Final

**Date of Interim Audit Report:** Click or tap here to enter text.     N/A

*If no Interim Audit Report, select N/A*

**Date of Final Audit Report:** 05/27/21

## Auditor Information

**Name:** Jack Fitzgerald

**Email:** jffitzgerald@dxconsultants.com

**Company Name:** DX Consultants LLC.

**Mailing Address:** PO Box 55372

**City, State, Zip:** St Petersburg FL 33732

**Telephone:** (813) 441-1111

**Date of Lockup Visit:** April 6, 2021

## Agency Information

**Name of Agency:** Massachusetts State Police

**Governing Authority or Parent Agency (If Applicable):** The Executive Office of Public Safety and Security

**Physical Address:** 470 Worcester Road

**City, State, Zip:** Framingham, MA 01702

**Mailing Address:** Click or tap here to enter text.

**City, State, Zip:** Click or tap here to enter text.

**The Agency Is:**

Military

Private for Profit

Private not for Profit

Municipal

County

State

Federal

**Agency Website with PREA Information:** <https://www.mass.gov/service-details/the-prison-rape-elimination-act-prea-of-2003>

## Agency Chief Executive Officer

**Name:** Colonel Christopher S Mason

**Email:** Christopher.mason@pol.state.ma.us

**Telephone:** 508-820-2350

## Agency-Wide PREA Coordinator

**Name:** Detective Captain Kevin Scaplen

**Email:** Keven.scaplen@massmail.state.ca.us

**Telephone:** 508-820-2350

**PREA Coordinator Reports to:**

**Number of Compliance Managers who report to the PREA Coordinator**

Lt Colonel Scott Warmington	0
-----------------------------	---

### Lockup Information

Name of Lockup: Massachusetts State Police A-2 Newbury

Physical Address: 200 Scotland Rd	City, State, Zip: Newbury MA 01951
-----------------------------------	------------------------------------

Mailing Address (if different from above): Click or tap here to enter text.	City, State, Zip: Click or tap here to enter text.
--	--

<b>The Lockup Is:</b>	<input type="checkbox"/> Military	<input type="checkbox"/> Private for Profit	<input type="checkbox"/> Private not for Profit
<input type="checkbox"/> Municipal	<input type="checkbox"/> County	<input checked="" type="checkbox"/> State	<input type="checkbox"/> Federal

Lockup Website with PREA Information: <https://www.mass.gov/service-details/the-prison-rape-elimination-act-prea-of-2003>

Has the lockup been accredited within the past 3 years?  Yes  No

If the lockup has been accredited within the past 3 years, select the accrediting organization(s) – select all that apply (N/A if the lockup has not been accredited within the past 3 years):

- ACA
- NCCHC
- CALEA
- Other (please name or describe: Click or tap here to enter text.)
- N/A

If the lockup has completed any internal or external audits other than those that resulted in accreditation, please describe:  
none

### Sheriff/Chief/Director

Name: Lieutenant Anthony Vorias

Email: Anthony.Vorias@pol.state.ma.us	Telephone: (978) 462- [REDACTED]
---------------------------------------	----------------------------------

### Lockup PREA Compliance Manager

Name: Detective Captain Kevin Scaplen

Email: kevin.scaplen@massmail.state.ma.us	Telephone: (508)820- [REDACTED]
---	---------------------------------

### Lockup Characteristics

Designated Lockup Capacity:	3
-----------------------------	---

Current Population of Lockup:	0
-------------------------------	---

Average daily population for the past 12 months:	1	
Has the lockup been over capacity at any point in the past 12 months?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Which population(s) does the lockup hold?	<input type="checkbox"/> Females <input type="checkbox"/> Males <input checked="" type="checkbox"/> Both Females and Males	
Age range of population:	Over 18	
Average length of stay or time under supervision	Few hours to 3 days	
Lockup security levels/detainee custody levels	secured	
Are detainees held overnight?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Number of detainees who were held overnight at the lockup during the past 12 months:	12	
Does the lockup hold juveniles or youthful detainees?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Number of juveniles and youthful detainees held in the lockup during the last 12 months: (N/A if the lockup never holds juvenile or youthful detainees)	Click or tap here to enter text. <input checked="" type="checkbox"/> N/A	
Does the audited lockup hold detainees for one or more other agencies (e.g. a State correctional agency, U.S. Marshals Service, Bureau of Prisons, U.S. Immigration and Customs Enforcement)?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Select all other agencies for which the audited lockup holds detainees: Select all that apply (N/A if the audited lockup does not hold detainees for any other agency or agencies):	<input type="checkbox"/> Federal Bureau of Prisons <input type="checkbox"/> U.S. Marshals Service <input type="checkbox"/> U.S. Immigration and Customs Enforcement <input type="checkbox"/> Bureau of Indian Affairs <input type="checkbox"/> U.S. Military branch <input type="checkbox"/> State or Territorial correctional agency <input type="checkbox"/> County correctional or detention agency <input type="checkbox"/> Judicial district correctional or detention facility <input type="checkbox"/> City or municipal correctional or detention facility (e.g. police lockup or city jail) <input type="checkbox"/> Private corrections or detention provider <input type="checkbox"/> Other - please name or describe: Click or tap here to enter text. <input checked="" type="checkbox"/> N/A	
Number of staff currently employed by the lockup who may have contact with detainees:	[REDACTED]	
Number of staff hired by the lockup during the past 12 months who may have contact with detainees:	0	
Number of contracts in the past 12 months for services with contractors who may have contact with detainees:	0	
Number of individual contractors who have contact with detainees, currently authorized to enter the lockup:	0	

Number of volunteers who have contact with detainees, currently authorized to enter the lockup:	0
<b>Physical Plant</b>	
<p>Number of buildings:</p> <p>Auditors should count all buildings that are part of the lockup, whether detainees are formally allowed to enter them or not. In situations where temporary structures have been erected (e.g., tents) the auditor should use their discretion to determine whether to include the structure in the overall count of buildings. As a general rule, if a temporary structure is regularly or routinely used to hold or house detainees, or if the temporary structure is used to house or support operational functions for more than a short period of time (e.g., an emergency situation), it should be included in the overall count of buildings.</p>	1
<p>Number of housing units or holding areas:</p> <p>DOJ PREA Working Group FAQ on the definition of a housing unit: How is a "housing unit" defined for the purposes of the PREA Standards? The question has been raised in particular as it relates to facilities that have adjacent or interconnected units. The most common concept of a housing unit is architectural. The generally agreed-upon definition is a space that is enclosed by physical barriers accessed through one or more doors of various types, including commercial-grade swing doors, steel sliding doors, interlocking sally port doors, etc. In addition to the primary entrance and exit, additional doors are often included to meet life safety codes. The unit contains sleeping space, sanitary facilities (including toilets, lavatories, and showers), and a dayroom or leisure space in differing configurations. Many facilities are designed with modules or pods clustered around a control room. This multiple-pod design provides the facility with certain staff efficiencies and economies of scale. At the same time, the design affords the flexibility to separately house detainees of differing security levels, or who are grouped by some other operational or service scheme. Generally, the control room is enclosed by security glass, and in some cases, this allows detainees to see into neighboring pods. However, observation from one unit to another is usually limited by angled site lines. In some cases, the facility has prevented this entirely by installing one-way glass. Both the architectural design and functional use of these multiple pods indicate that they are managed as distinct housing units.</p>	1
Number of single detainee cells, rooms, holding areas, or other enclosures:	3
Number of multiple occupancy cells, rooms, holding areas, or other enclosures:	0
Are juvenile or youthful detainees held separately from the adult population? (N/A if the lockup never holds juvenile or youthful detainees)	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
Does the lockup have a video monitoring system, electronic surveillance system, or other monitoring technology (e.g. cameras, etc.)?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Has the lockup installed or updated a video monitoring system, electronic surveillance system, or other monitoring technology in the past 12 months?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>Medical and Mental Health Services and Forensic Medical Exams</b>	
Are medical services provided onsite?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Are mental health services provided onsite?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

<p><b>Where are sexual assault forensic medical exams provided? Select all that apply.</b></p>	<input type="checkbox"/> On-site <input checked="" type="checkbox"/> Local hospital/clinic <input type="checkbox"/> Rape Crisis Center <input type="checkbox"/> Other (please name or describe: <a href="#">Click or tap here to enter text.</a> )
--	---

**Investigations**

**Criminal Investigations**

<p><b>Number of investigators employed by the agency or its lockups who are responsible for conducting CRIMINAL investigations into allegations of sexual abuse or sexual harassment:</b></p>	<p>93</p>
---	-----------

<p><b>When the lockup received allegations of sexual abuse or sexual harassment (whether staff-on-detainee or detainee-on-detainee), CRIMINAL INVESTIGATIONS are conducted by: Select all that apply.</b></p>	<input checked="" type="checkbox"/> Facility investigators <input type="checkbox"/> Agency investigators <input type="checkbox"/> An external investigative entity
---	--

<p><b>Select all external entities responsible for CRIMINAL INVESTIGATIONS: Select all that apply (N/A if no external entities are responsible for criminal investigations)</b></p>	<input type="checkbox"/> Local police department <input type="checkbox"/> Local sheriff's department <input type="checkbox"/> State police <input type="checkbox"/> A U.S. Department of Justice component <input type="checkbox"/> Other (please name or describe: <a href="#">Click or tap here to enter text.</a> ) <input checked="" type="checkbox"/> N/A
---	---

**Administrative Investigations**

<p><b>Number of investigators employed by the agency or its lockups who are responsible for conducting ADMINISTRATIVE investigations into allegations of sexual abuse or sexual harassment?</b></p>	<p>21</p>
---	-----------

<p><b>When the lockup receives allegations of sexual abuse or sexual harassment (whether staff-on-detainee or detainee-on-detainee), ADMINISTRATIVE INVESTIGATIONS are conducted by: Select all that apply</b></p>	<input checked="" type="checkbox"/> Facility investigators <input type="checkbox"/> Agency investigators <input type="checkbox"/> An external investigative entity
--	--

<p><b>Select all external entities responsible for ADMINISTRATIVE INVESTIGATIONS: Select all that apply (N/A if no external entities are responsible for administrative investigations)</b></p>	<input type="checkbox"/> Local police department <input type="checkbox"/> Local sheriff's department <input type="checkbox"/> State police <input type="checkbox"/> A U.S. Department of Justice component <input type="checkbox"/> Other (please name or describe: <a href="#">Click or tap here to enter text.</a> ) <input checked="" type="checkbox"/> N/A
---	---

# Audit Findings

## Audit Narrative (including Audit Methodology)

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

The PREA audit of the Massachusetts State Police Station in Newbury (A-2) was conducted on April 6, 2021, by Jack Fitzgerald, US DOJ Dual Certified PREA Auditor. Mr. Fitzgerald is completing the Newbury Station audit as a DX Consultants LLC representative of St. Petersburg, FL. The audit process began with the notification of the onsite audit that was posted by October 26, 2020. The Audit was rescheduled on two occasions due to COVID-19. The posting of the notices was verified during the tour and verified by photographs. A flash drive from the MSP Deputy Chief Legal Counsel and the agency PREA Coordinator contained all policy and related supporting documentation. The Auditor did not receive any communication from the staff, detainees, visitors, contractors, volunteers, or interns due to the posted notices.

The Pre-Audit Questionnaire, policies, procedures, and supporting documentation for all thirty-five (35) standards were received in November of 2020. The documentation was uploaded to a flash drive which included policies. The Auditor has spoken with the agency PREA Coordinator during the pre-audit period. The Auditor described the requirements of the audit process and including the randomization of files to be reviewed. The Auditor set up documentation requests on random samples of detainee and staff files to review onsite on this and subsequent communication. The Auditor suggested information staff could review to prepare for the Audit visit and a tentative schedule for the day. Due to the COVID-19 travel restriction, the Auditor was required to have a negative test within three days of entering the state of Massachusetts.

The onsite audit was conducted on April 6, 2021. The Auditor entered the area a day earlier to allow for an early start on the overnight shift. An entrance briefing was conducted with the Station Commander and the Sergeant. During the entrance briefing, it was explained the audit process and a tentative schedule for the day to include conducting interviews with the state troopers and detainees if there were any, observing the PREA portion of a booking if one was to occur and reviewing the documentation. The Auditor interviewed representatives of the night shift before the tour of the facility. A tour of the entire station/barracks occurred. The building is one story containing Trooper's desk area, the Desk Officer's monitoring/dispatch station, several offices, the Lieutenant's office, and the staff breakroom, the exercise room, the booking room, and the cell block.

Notification of the PREA audit was posted in the booking and squad areas and postings informing detainees of the telephone numbers to call against sexual abuse and harassment and call the victim advocate. Desk Officer's monitors cover the booking area and (3) holding cells, but there is no video recording. The cameras' primary purpose is to watch for any detainee's self-harming behavior placed in a cell. During the tour, it was observed that holding cells allowed for privacy while toileting through pixelization to obscure the toilet area. These holding cells contain one bench and a toilet. The Auditor arrived at the facility at 6 am to interview any overnight staff and interview detainees who may have spent the night. There were no detainees currently at or brought to this station/barracks during the Auditor's stay, which covered all three shifts. Therefore, this Auditor was unable to interview detainees or observe an intake from the targeted groups that are identified as follows: detainees with a physical disability; detainees who are blind, deaf, or hard of hearing; detainees who are Limited English

Proficient (LEP); detainees with a cognitive disability; detainees identified as potentially vulnerable to sexual victimization during risk screening and juveniles/youthful detainees. The Auditor relied on documentation and staff ability to discuss working with these at-risk groups in assessing the station's compliance.

During all three of the PREA Audit phases, the Auditor made outreach to various state and local agencies that would be involved in sexual abuse cases in Massachusetts. The outreach included the MSP complaint line, the Attorney General's Office, a hospital with SANE nursing. The auditor confirmed with the hospital that a rape crisis agency advocate would be offered to victims of sexual abuse. The Auditor formally interviewed, including [REDACTED] State Troopers or Sergeants from three (3) shifts, and the Station Commander. All officers The Auditor also interview in the last six months a human resources representative, DIS investigator, and via telephone the MSP Colonel and Detective Captain/PREA Coordinator.

Staff interviews were completed on an individual basis away from other staff to provide privacy. Interviews were also done with COVID-19 safety protocols, including wearing masks and maintaining a distance of over 6 feet. The interviews revealed the staff is knowledgeable of the PREA standards and articulated from their training, their responsibilities, and mandated duty to report sexual misconduct. Staff discussed ways to ensure Detainees' safety, including keeping males, females, and juveniles, separated. The Auditor worked with agency leadership to resolve information missing to determine compliance. The Auditor and the Station Commander discussed standard requirements and ways to improve the overall documentation of standards.

## Lockup Characteristics

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

The Massachusetts State Police (MSP) is the statewide law enforcement agency for the Commonwealth of Massachusetts. The State Police are part of the executive branch office of Public Safety and Security, which includes several agencies, including the Parole Division and the Department of Corrections. The State Police are responsible for criminal law enforcement and traffic vehicle regulation across the state. There are five (5) operational divisions: Field Services, Investigative Services, Standards and Training, Homeland Security and Administration, and Finance. The state is divided into six (6) different troop areas for State Police with district Supervisors on duty at all times to aid in the coordination of response if the Lieutenant is not in the station. The Newbury Station is located in the northeastern section of the state, about 39 miles from Boston and 54 miles from the Massachusetts State Police Headquarters in Framingham. The Agency is responsible for PREA sexual abuse investigations at its own lockup facilities, at the Department of Corrections Facilities, and the Department of Youth Services Facilities. The Newbury Troop is known as Troop "A." The Newbury Station services 14 communities in the northeastern corner of the state.

The one-story station was built in the 1980s. The Newbury Station is comprised of a lobby, Desk area, booking area, kitchen/dining area, Court Officers office, Lieutenant's Office, locker room, exercise space. There are no showers in the Newbury Station for detainees who are provided a washbasin for cleaning up in the event a detainee is held for a long time overnight. The booking area has a cuffing rail/bench and three (3) holding cells adjacent to the booking area, each containing a bench and toilet. Located in the booking area is a placard mounted on the wall with the PREA information/ zero tolerance (SEXUAL ASSAULT IS AN ACT OF VIOLENCE). The posting informs detainees that they can report sexual assault or harassment by telling any state trooper or staff, submitting a written complaint, or having a friend or relative report the detainee's incident. It also informs the detainee that they, or someone on their behalf, can anonymously report any alleged incident to the Massachusetts Attorney General's Office, a third-party entity not affiliated with the State Police. Newbury Station is staffed with G.L. c. 4 §7 cl. 26 (n) (Security) sworn police personnel assigned to this barracks. This station/barracks operates on three (3) shifts. During the onsite visit, the minimum staffing pattern was a G.L. c. 4 §7 cl. 26 (n) (Security) on the mid-shift; a G.L. c. 4 §7 cl. 26 (n) (Security) on the day shift; and a G.L. c. 4, sec. 7, cl. 26 (c) (privacy) officers on the evening shift. At no point in the last year has the station not maintained the minimum staffing level. The average booking hold is less than six (6) hours, and in many cases, the individual is released before ever being placed in a holding cell. The longest time an individual would be in custody would be three days over a holiday weekend. Individuals arrested during the court day are often brought to court or may be released on bail. Once the individual is delivered to court, they become the custodial responsibility of the county Sheriff's Office. In the cases of weekend arrest or those who have active arrest warrants, the Newbury Station will often transfer the individual to a county correctional facility. The PRE-Audit Questionnaire reported limited overnight stays in the past year at the barracks. Given the small size of the facility, they work with other stations in the district to ensure male and female prisoners are not housed in the lockup cells at the same time. The Massachusetts State Police can take juveniles into custody, but they try to limit time in a barracks and are not allowed to place them in lockup. All Troopers were aware of federal requirements of keeping sight and sound separation between adults and juvenile detainees. By practice, the troop also keeps females, and male detainees separated. When detainees are present in the cell block, the Troopers must visit the cell at a minimum



of every half hour. If there is a concern around emotional vulnerability, the individual may be observed more frequently, or the arresting officer may provide direct supervision if needed.

## Summary of Audit Findings

The summary should include the number and list of standards exceeded, number of standards met, and number and list of standards not met.

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

### Standards Exceeded

**Number of Standards Exceeded:** 1  
**List of Standards Exceeded:** 115.115

### Standards Met

**Number of Standards Met:** 34

### Standards Not Met

**Number of Standards Not Met:** 0  
**List of Standards Not Met:** Click or tap here to enter text.

## PREVENTION PLANNING

### Standard 115.111: Zero tolerance of sexual abuse and sexual harassment; PREA coordinator

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

#### 115.111 (a)

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

#### 115.111 (b)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

#### Policies and written/electronic documentation reviewed.

Newbury PreAudit Questionnaire  
DET -07 Detainee Sexual Abuse and Sexual Harassment  
17-DFS-003

**Individuals interviewed/ observations made.**

Interview with PREA Coordinator  
Interview with Colonel of the Massachusetts State Police  
PREA Postings

**Indicator Summary determination.**

**Indicator (a).** The Massachusetts State Police has a policy that mandates zero tolerance toward sexual assault or sexual harassment. Policy DET-07 Detainee Sexual Abuse and Sexual Harassment establishes on page 1, “a zero-tolerance policy toward all forms of sexual abuse and sexual harassment toward any detainee.” It further states the legal right to be free from such misconduct. It notifies the reader of the State Police's obligation to protect individuals from any retaliation for reporting such incidents. The policy outlines the State Police's efforts to prevent, detect, and respond to sexual abuse or sexual harassment incidents at Newbury Station. DET-07 is one of several policies or orders that outline how these efforts are to be achieved in all department locations. The policies reviewed by the Auditor set forth specific guidelines to support the prevention and detection of detainees from sexual misconduct. Policies defined the response to sexual abuse and sexual harassment claims, the investigatory process, and the sanctions for those engaging in misconduct. The Auditor also reviewed training bulletins and command orders that reinforce requirements of the Prison Rape Elimination Act.

**Indicator (b).** Massachusetts State Police has an individual assigned to oversee the agency's efforts toward compliance with the Prison Rape Elimination Act (PREA). Policy DET-07 Defines the role of the PREA Coordinator on pages two and nine. Detective Captain Kevin Scaplen is the agency's PREA Coordinator. The Detective Captain is a manager in the Division of Investigative Services within the Massachusetts State Police. The PREA Coordinator works with the Station Commanders to ensure compliance with the PREA Lockup standards. His role includes tracking incidents, provide support to identified needs, ensure all investigations are completed consistent with agency expectations, ensure staff are trained on PREA, including the investigation of sexual assault in lockups, and monitoring standard requirements. Both the PREA Coordinator and Colonel of the Massachusetts State Police confirmed the PREA Coordinator's ability to develop and implement policies and procedures to ensure further the sexually safe lockup of detainees across the State Police Department. The Auditor was able to review materials, including the agency's organizational chart, and discuss with the Station Commanders that further support the PREA Coordinator's role in promoting a Zero Tolerance culture while ensuring compliance with Prison Rape Elimination Act. The PREA Coordinator has been in the position for approximately one year. He described how information about allegations would be channeled to him, steps he would take to resolve PREA compliance concerns and promote the zero-tolerance culture.

**Compliance Determination**

The information in Policy DET-07 Detainee Sexual Abuse and Sexual Harassment supports Zero Tolerance's expectation towards any form of sexual assault or sexual harassment. Interviews with the Colonel of the Massachusetts State Police and the PREA Coordinator confirm there are sufficient resources in place toward preventing, detecting, and responding to any allegation of sexual abuse or sexual harassment. The interview with the Station Commander supports good communication with the PREA Coordinator if issues arise. The Auditor was able to review policy, see materials posted in the facility, and interview random staff who understood their roles in preventing, detecting, and responding

to sexual abuse or sexual harassment incidents. The Auditor also considered the staff members' knowledge of PREA training and the Zero Tolerance expectation. The Auditor confirmed with the PREA Coordinator steps taken to ensure compliance, and he was able to point out areas he would like to strengthen compliance. The Auditor finds the standard is met based on the stated factors supporting a zero-tolerance culture. In determining compliance, the Auditor considered the interviews, the policy, and the other supporting documents provided and viewed at the facility.

## Standard 115.112: Contracting with other entities for the confinement of detainees

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

#### 115.112 (a)

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

#### 115.112 (b)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

**Policies and written/electronic documentation reviewed.**

Newbury PreAudit Questionnaire  
Contracts with County Jails  
Websites of Contracted facilities

**Individuals interviewed/ observations made.**

Interview with Contract Manager

**Indicator Summary determination.**

**Indicator (a).**

The Massachusetts State Police has entered into agreements with County Jails to provide mutual aid, which includes the housing of MSP detainees awaiting an appearance in a District Court. The two contracts reviewed by the Auditor support an agreement is to hold weekend or overnight admissions for the state police. Both documents set forth a requirement for the facilities to have a zero-tolerance policy and be “compliant with the Prison Rape Elimination Act by the U.S. Department of Justice.” There are no requirements to contract for Juveniles' housing as Massachusetts laws in 115.114 require all juveniles to be held in a DYS-approved bed or a regional Juvenile Detention facility. During the audit period, the MSP Deputy Chief Legal Counsel provided updated documentation supporting the agreements are still in force.

**Indicator (b).**

Each facility holds limited numbers of individuals for the state police for no more than three days when presented to a judge who will determine remand or release. Upon remand, they are no longer the responsibility of the Massachusetts State Police. Each of the facilities is currently PREA compliant with audits in the last two years.

**Compliance Determination**

The Massachusetts State Police has limited-use-bed agreements with two local counties to be able to hold detainees awaiting their court appearance. The Station Commander reports that the majority of detainees are held less than 6 hours, and the county jails are most often used for the weekend, where they are held with other pretrial admissions. The agency and the county sheriffs have ensured the agreements include language on PREA compliance. The Auditor confirmed on each county site that the institution had completed a successful PREA Audit. Compliance is based on the policy, the MOA language requiring PREA Compliance, discussions with the Station Commander, PREA Coordinator, and Deputy Chief Legal Counsel.

**Standard 115.113: Supervision and monitoring**

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

**115.113 (a)**

- Does the facility have a documented staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring, to protect detainees against sexual abuse?  Yes  No

- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: The physical layout of the lockup?  Yes  No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: The composition of the detainee population?  Yes  No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: The prevalence of substantiated and unsubstantiated incidents of sexual abuse?  Yes  No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: Any other relevant factors?  Yes  No

#### 115.113 (b)

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

#### 115.113 (c)

- In the past 12 months, has the lockup assessed, determined, and documented whether adjustments are needed to the staffing plan established pursuant to paragraph (a) of this section?  Yes  No
- In the past 12 months, has the lockup assessed, determined, and documented whether adjustments are needed to prevailing staffing patterns?  Yes  No
- In the past 12 months, has the lockup assessed, determined, and documented whether adjustments are needed to the lockup's deployment of video monitoring systems and other monitoring technologies?  Yes  No
- In the past 12 months, has the lockup assessed, determined, and documented whether adjustments are needed to the resources the lockup has available to commit to ensure adequate staffing levels?  Yes  No

#### 115.113 (d)

- If vulnerable detainees are identified pursuant to the screening required by § 115.141, does security staff provide such detainees with heightened protection, to include: Continuous direct sight and sound supervision?  Yes  No
- If vulnerable detainees are identified pursuant to the screening required by § 115.141, does security staff provide such detainees with heightened protection, to include: Single-cell housing or placement in a cell actively monitored on video by a staff member sufficiently proximate to intervene, unless no such option is determined to be feasible?  Yes  No

## Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

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

### **Policies and written/electronic documentation reviewed.**

Newbury PreAudit Questionnaire  
17-DFS-003  
17-DFS-034  
PRI-02 Custodial Inventory  
PRI-06 Prisoner Monitoring  
DET-07 Detainee Sexual Abuse and Sexual Harassment  
DET-07a Detainee Sexual Abuse and Sexual Harassment

### **Individuals interviewed/ observations made.**

Interview with Station Commander

### **Indicator Summary determination.**

**Indicator (a).** Newbury Station has a staffing plan for its lockup. Policy DET-07 Detainee Sexual Abuse and Sexual Harassment (page 3) states, "Station commanders for each barracks containing cells shall develop and document a staffing plan that provides for adequate levels of staffing, and, where applicable, video monitoring to protect detainees against abuse." The document reviewed by the Auditor describes the steps taken to ensure supervision is ongoing through video, audio monitoring of the cell blocks, and random tours of the unit at a minimum of once an hour. With three (3) holding cells, the maximum capacity is three. The plan addresses the use of cameras, allowing for both video and audio monitoring of the entire lockup, including each cell. Interviews with Station Commander and the PREA Coordinator confirmed that they considered how cameras are placed to aid detainees' supervision. The staffing plan also takes into consideration the number of allegations in the year. In the last year, zero allegations occurred in the Newbury Station lockup. The staffing plan is a two-page document supported through a policy that defines the requirements to be considered. Newbury Station has live staff present in the area who can visually monitor detainees in lockup. The plan has been developed at Newbury Station consistent with the Massachusetts State Police policy and in cooperation with the agency's central office administration and the Agency PREA Coordinator.

**Indicator (b).** In the past year, there were zero situations in which the lockup supervision numbers were not met. Since there has been no situation in which the staffing minimums of the Newbury Station



were not met, this indicator is not applicable. The Station Commander reports he is notified of all vacancies and described how the void is filled. As a statewide entity, the MSP can assign guest troopers from other stations to fill a void or to aid where there is an uptick in detainees. Each station is part of a district command structure that can assist in providing additional resources if needed. Policy DET-07 (page 3) sets forth the expectation if staffing cannot be met. "Each time the staffing plan is not complied with, the station commander shall document and justify all deviations from the staffing plan and shall forward the document with justifications to the PREA Coordinator."

**Indicator (c).** There has been no reported incident of PREA or other conflicts within the lockup that required an adjustment to the compliment. The Detainees are under constant video surveillance in their cells. Rounds are made at a minimum hourly and more frequently if the detainee is identified with risk concerns. The staffing plan was modified during the Audit period to cover the required areas of consideration. The staffing compliments for each station and approved minimums are approved through the upper command structure of the Massachusetts State Police. The PREA Coordinator is aware of the annual review process. The agency developed a yearly review document that the Station Commanders and the MSP PREA Coordinator used to improve the documentation of the process.

**Indicator (d)** As noted in Indicator (c), the staffing plan accounts for protecting vulnerable detainees. Interviews with Newbury Station Commander and Troopers confirmed the steps taken to protect vulnerable adults that may require direct supervision or a referral to the hospital if their symptoms include any concerns around suicidality. Officers were able to describe steps taken to keep detainees safe. The measures include sight and sound separation of all juveniles entering booking from contact with adults, ensuring males and females are never in the same cell block. All detainees are secured in single cells under video surveillance.

### **Compliance Determination**

Newbury Station is compliant with the indicators comprising the supervision and monitoring of detainees in the facility. The Massachusetts State Police policy describes the content requirements consistent with the federal standard language in indicator (a). Interview with Station Commander and the PREA Coordinator confirmed an understanding of the development and annual review process, including the requirements of indicators (a) and (c). Interviews with random staff confirm a practice of identifying individuals who may be vulnerable in a lockup setting and a plan to ensure their safety. Compliance determination was based on the written plans, interviews with administration and line staff, and the other stated supporting documentation.

## **Standard 115.114: Juveniles and youthful detainees**

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

### **115.114 (a)**

- Are juveniles and youthful detainees held separately from adult detainees? (N/A if the lockup does not hold juveniles or youthful detainees (detainees <18 years old).)  Yes  No  NA

### **Auditor Overall Compliance Determination**

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

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

### Instructions for Overall Compliance Determination Narrative

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

Newbury PreAudit Questionnaire  
INV-05 Juvenile Operations  
PRI-09 Juvenile Detention

#### **Individuals interviewed/ observations made.**

Interview with Troopers  
Interview with Station Commander.

#### **Indicator Summary determination.**

**Indicator (a).** The Massachusetts State Police does have the capacity to arrest and detain a juvenile offender. Policy INV-05 defines the interactions of Troopers and juveniles. The policy sets forth that juveniles and adult detainees must be separated. The policy also states that if the child is not released, they should be placed in an appropriate Department of Youth Services facility or a Regional Juvenile Detention Facility. Policy PRI-09 also instructs staff on the handling of Juvenile cases. On page 3, it states, "A juvenile who has not yet attained his or her fourteenth (14) birthday shall not be placed in secured detention for any amount of time. No juvenile between fourteen (14) and eighteen (18) years of age shall be placed in a cell unless the cell has been certified by the Department of Youth Services (DYS). A juvenile who is securely detained in Department custody must be separated by sight and sound from adults in custody."

The random Troopers and facility leadership confirmed in interviews that it is not their practice to put juveniles in the holding cells. The Troopers spoken with knew the need to keep juvenile detainees away from adult detainees. The Auditor learned that most juveniles they have contact with are released directly to the parent or guardian. The Station Commander confirmed that the officers would likely bring the youth directly to a Juvenile Detention facility and complete the booking task remotely if the detainee needs to be held. The Auditor finds that the indicator does not apply based on policy language in PRI-09, by the stated practices at Newbury Station, and the methods in place ensure there is no contact between the adult and juvenile detainees.

#### **Compliance Determination**

The Auditor finds the standard is compliant. The Massachusetts State Police have several policies that define the handling of juveniles consistent with the standard. The Newbury Station does not hold Juveniles in the Lock-up Area. The Troopers spoken with consistently reported that juveniles are not to be placed in a holding cell, and the officers were all aware of the need to keep sight and sound

separation between adult and juvenile detainees during times in the station. The Station Commander described options to ensure juveniles and adults do not cross paths in booking, including using other Barracks to book adults if there is a juvenile in the booking area. The agency takes steps to limit juvenile contact to as long as it is needed to effectuate release to a parent or another suitable custodial situation suitable for the juvenile.

## Standard 115.115: Limits to cross-gender viewing and searches

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

#### 115.115 (a)

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

#### 115.115 (b)

- Does the lockup document all cross-gender strip searches and cross-gender visual body cavity searches?  Yes  No

#### 115.115 (c)

- Does the lockup have policies that enable detainees to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks?  Yes  No
- Does the lockup have procedures that enable detainees to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks?  Yes  No
- Does the lockup require staff of the opposite gender to announce their presence when entering an area where detainees are likely to be showering, performing bodily functions, or changing clothing?  Yes  No

#### 115.115 (d)

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

## 115.115 (e)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

#### **Policies and written/electronic documentation reviewed.**

Newbury PreAudit Questionnaire  
PRI-02 Custodial Inventory  
17-DSF-003 PREA  
DET-07 Detainee Sexual Abuse and Sexual Harassment  
DET-07a Detainee Sexual Abuse and Sexual Harassment  
PRI-06 Prisoner Monitoring  
PRI-08 Gender Identity and Expression

#### **Individuals interviewed/ observations made.**

Interviews with random staff  
Interview with Station Commander

#### **Indicator Summary determination.**

**Indicator (a).** Newbury Station does not conduct any cross-gender strip or body cavity searches unless there is an exigent circumstance or by a medical practitioner. Random staff reported an exigent circumstance would be if there was probable cause of a weapon or drugs on the person. They confirmed that determining an individual's genital status was not an appropriate reason to complete a strip search. MA State Police policy PRI-02 states that all strip searches will only occur in exigent circumstances when "probable cause to believe that the subject has contraband or weapons that may jeopardize the health and safety of the subject and/or those who may come in contact with the arrested

person.” The Policy goes on to state the searches will be done only with the approval of a supervisor and must be done by two staff of the same gender as the detainee. No officer interviewed reported completion of a strip search of any detainee in the past three years, including any cross-gender strip or body cavity searches.

**Indicator (b).** Random staff interviewed confirmed that if a strip search was to occur, it must be same gender, and the exigent circumstance for the search would also be required to be documented. Policy PRI-02 states under its section on strip searches, “The reasons for the search shall be documented in the arrest report.” The staff reported that they routinely request a staff of the same gender, if available, to complete any type of searches, including pat search if the detainee was different than their gender. They also report they can request assistance from other barracks or local police departments. The Policy also prohibits all body cavity searches unless a warrant is approved by a judge and administered by a medical professional.

**Indicator (c).** Divisional Command 17-DFS-003 (page 1) set forth the requirements for detainees to shower, change clothes, or use the bathroom without staff observing them. ‘Absent any exigent circumstance detainees will be able to perform bodily functions without Members or Employees viewing their breast, buttocks or genitalia.’ Staff interviewed were able to describe how they are required to announce their presence when entering the lockup when an opposite gender detainee is being held. The announcement requirement is echoed on policy PRI-06, which states in the section on entering a cell area, “Department members shall announce themselves prior to entering the cell area containing a member(s) of the opposite sex. Staff shall not place themselves in a position where they can view the breasts, buttocks, or genitalia of a detainee of the opposite gender.” There are no showers or change of clothes in the lock-up. The Policy goes on to support the other required language of this indicator. Staff report that they do complete random checks in the course of the shift. There were no detainees to interview, so the Auditor had to rely on policy and staff explanation of the practices in the facility to support compliance. In the lockup cellblock at Newbury Station, the Auditor observed a camera that looks into each of the detained individual’s cells. The cameras allow for pixelation or blacking out the area where a detainee would be using the bathroom to enable appropriate privacy from cross-gender viewing.

**Indicator (d).** As noted in indicator (a), the Massachusetts State Police (MSP) only performs strip searches of detainees and only when there is reasonable belief of a risk to the individual's safety or the facility. MSP policy PIR-08 Gender Identity and Expression sets for the requirements consistent with the indicators language. It requires transgender or intersex detainees shall not be searched or physically examined for the sole purpose of determining the detainee’s genital status. Troopers interviewed confirmed that transgender detainees can state their preference on the search and that it would generally be honored utilizing two of the same gender staff as requested present. The department has trained its staff on respectful and professional communication with these populations. Staff knew to use the individual's preferred name and pronouns and stated items such as wigs or prosthetics can normally be retained by the detainee. All staff interviewed supported that pat are strip searches are prohibited from occurring to determine the individual's genital status. The staff confirmed that transgender or intersex detainees would be searched consistently with the gender staff they are more comfortable with.

**Indicator (e).** The Troopers at Newbury Station confirm they have been trained to properly perform cross-gender searches of detainees. They also were able to describe what information they were provided on searching transgender and intersex detainees. Staff report that both at the point of arrest and booking, the barracks will go to lengths to limit the need to perform cross-gender searches. They can ask neighboring barracks or local police assistance if they need a female officer to complete a pat

search. Staff described the training included communication with the individual about the pat search process. They also acknowledged the use of the back of their hand to avoid any allegations of groping and that when possible more than one staff be present.

### **Compliance Determination**

The Massachusetts State Police has provided sufficient training to the staff on limiting the use of cross-gender searches. Agency policy only allows strip searches or body cavity searches in exigent circumstances. The policies and training provided staff with an understanding of the importance of announcing their presence when entering the block area. The agency has installed digital obscuring of the toileting area to ensure privacy for a detainee. Detainees do not shower or change clothes, and there is signage informing detainees of the monitoring of the cells. The Troopers were able to describe the practices they would employ if there was a need to perform a cross-gender pat search or a search of a transgender or intersex individual. Staff consistently reported they would take steps to have searches completed by the gender staff the detainee feels most comfortable with. The Auditor finds the standard is being complied with, based on policy and staff interviews. There were no detainees to interview, so the Auditor had to weigh the decision based on these two factors. The Auditor is also going to find the standard has been exceeded. The MSP has created a process of maintaining security while limiting the use of strip searches to exigent circumstances. Further supporting the determination of exceeds are the Troopers' descriptions of the use of local police to aid in search of detainees on the roadside stop or in the barracks to reduce incidents of cross-gender pat searches.

## **Standard 115.116: Detainees with disabilities and detainees who are limited English proficient**

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

#### **115.116 (a)**

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

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

#### 115.116 (b)

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

#### 115.116 (c)

- Does the agency always refrain from relying on detainee interpreters, detainee readers, or other types of detainee assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the detainee's safety, the performance of first-response duties under §115.164, or the investigation of the detainee's allegations?  Yes  No

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

#### **Policies and written/electronic documentation reviewed.**

Newbury PreAudit Questionnaire  
 Contract for interpretive services  
 DET-07 Detainee Sexual Abuse and Sexual Harassment  
 DET-07a Detainee Sexual Abuse and Sexual Harassment

#### **Individuals interviewed/ observations made.**

Posting in the Station on interpretive services.  
 Interview with Random Staff  
 Interview with Station Commander  
 Interview with Colonel of MSP

#### **Indicator Summary determination.**

**Indicator (a).** The Massachusetts State Police has experience in ensuring detainees understand the rights as part of the booking process. Only individuals with the most serious charges would be placed in lockup. Troopers have experience working with diverse groups of individuals, including individuals with physical and emotional disabilities. If the detainee has an apparent mental illness or physical ailments, they can be taken to county jails or emergency rooms. All staff are aware of the interpretive services and are aware that it is inappropriate to utilize another detainee to interpret for one that does not speak English. They have access to services for deaf and blind individuals who might enter custody. The state also provides assistance for individuals with intellectual disabilities through the Disabled Persons Protection Commission. Policy DET-07 addresses the agency commitment when it states, “Detainees with disabilities include detainees who are deaf, hard of hearing, blind or have low vision and those who have intellectual, psychiatric, or speech disabilities. Members shall take appropriate steps to ensure that detainees with disabilities have an equal opportunity to benefit from all aspects of the Department’s efforts to prevent, detect, and respond to sexual abuse and sexual harassment. Such steps shall include providing access to interpreters who can interpret effectively, accurately, and impartially when necessary to ensure effective communication with detainees who are deaf or hard of hearing. In addition, members shall ensure that written materials are provided in formats and through methods that ensure effective communication with detainees with disabilities.”



**Indicator (b).** As noted in indicator (a), the Massachusetts State Police has both experiences working with individuals who are Limited English Proficient (LEP) and the resources for providing interpretive services. The agency has access to interpretive services through a contract with Century Link Interpretive services. The Auditor requested the addition of PREA Signage to the booking area in an alternative language. Policy DET-07 states, “Members shall take reasonable steps to ensure that detainees with limited English proficiency have meaningful access to information regarding the Department’s policies and efforts to prevent, detect, and respond to sexual abuse and sexual harassment including by providing interpreters who can interpret effectively, accurately, and impartially.” The agency PREA Coordinator has added PREA notification materials in a second language (Spanish) and will add other languages as needed. Depending on the frequency, the individual barracks have to use interpretive services for a particular language to ensure detainees’ understanding of rights, including PREA.

**Indicator (c)** All staff interviewed at Newbury Station knew that utilization of detainee interpreters other than in emergency situations such as a medical crisis is inappropriate. Staff were cognizant of the various concerns that would arise from utilizing a detainee to interpret. Policy DET-07 addresses the indicator’s concern by stating, “No member shall use detainees as interpreters or readers or otherwise request assistance from another detainee except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the detainee’s safety, the performance of first-responder duties, or the investigation of the detainee’s sexual abuse/harassment allegations.”

#### **Compliance Determination**

Newbury Station has appropriately trained staff to ensure they provide each individual with the appropriate information about their right, including those covered in the Prison Rape Elimination Act. The facility added information in alternative languages. Without a detainee to interview, the Auditor relied on policy, the staff’s understanding of standard expectations, and examples of how they previously worked with individuals with disabilities or LEP. Interview with the Colonel of MSP further supported a determination of compliance. His comments on the agency’s commitment to ensuring LEP and disabled individuals understand their rights and information to keep themselves safe or report a concern set an expectation for the individual Trooper. The staff confirmed this expectation and provided examples of procedures consistent with the standard. As a law enforcement agency, the Massachusetts State Police is experienced in ensuring clients are able to understand their rights. Troopers interviewed reported experience of using interpreters to ensure detainees understand their rights and obtain accurate information. Based on interviews, policy, documentation visible to detainees, and the interpretive services contracts in place the facility is compliant.

## **Standard 115.117: Hiring and promotion decisions**

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

#### **115.117 (a)**

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

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

#### 115.117 (b)

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

#### 115.117 (c)

- Before hiring new employees, who may have contact with detainees, does the agency: Perform a criminal background records check?  Yes  No
- Before hiring new employees, who may have contact with detainees, does the agency: Make its best efforts to contact all prior institutional employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse?  Yes  No

#### 115.117 (d)

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

#### 115.117 (e)

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

#### 115.117 (f)

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

#### 115.117 (g)

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

#### 115.117 (h)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

#### Policies and written/electronic documentation reviewed.

Newbury PreAudit Questionnaire  
DET-07-Detainee Sexual Abuse and Sexual Harassment  
Job Application  
PREA Questionnaire  
SP 127 Acknowledgement of Specific Departmental Policy and Procedures  
Massachusetts Law GL 22c- 14 (employment requirements of MSP staff)  
Human Resource Memo's related to standards

**Individuals interviewed/ observations made.**

Interview with Human Resource Staff  
Interview with PREA Coordinator  
Interview with Station Commander

**Summary Determination**

**Indicator (a).** DET-07-Detainee Sexual Abuse and Sexual Harassment (page 9-10) address the requirements of this indicator in the section on employee eligibility. The Policy strictly prohibits the employment or contracting the services of individuals who have engaged in, have been convicted of engaging in or attempting to engage in or administratively been adjudicated for sexual assault— Massachusetts State law similar prohibitions for employment the state police department. DET-07-Detainee Sexual Abuse and Sexual Harassment utilizes the same language requirements for contracted employees. The Massachusetts State Police does not employ the use of contractors or volunteers who would have contact with detainees. Interviews with HR staff support the process of screening all applicants for employment at the Newbury Station.

The employee application process requires potential candidates to confirm that they have not engaged in any form of the sexual misconduct described in indicator (a) 'including sexual assault in a prison or jail, any attempt to engage in sexual activity by force in the community or through coercion or engagement with an individual who could not consent.' The Background Questionnaire is similar to other law enforcement agencies' applications the Auditor has reviewed. The Auditor confirmed the questions are asked at the time of hire and promotional periods. In determining compliance, the Auditor reviewed 5 of [REDACTED] staff files, including individuals hired in the last year. The Auditor viewed the Human Resource files at the MSP Headquarters in Framingham, MA.

**Indicator (b).** As noted in indicator (a) the Massachusetts State Police does not employ the use of Contracted or volunteers at Newbury Station. The MSP policy has prohibitions in place for the employment or contracting of individuals who may have engaged in behaviors described in indicator (a). The Auditor confirmed with the Human Resources staff that MSP does perform the criminal background checks on all applicants for hire. The Human Resource staff confirmed that all individuals who are recommended for hire or promotion who have potential concerning issues in their work or personal history would be brought to her supervisor's attention before any offer of a position in the institution. The MSP prescreening process for its employees would seek to find information on criminal offenses, and the agency does reach out to former employers for other behaviors that might have caused discipline.

**Indicator (c).** The Massachusetts State Police completes criminal background checks on all employees. Agency policy DET-07-Detainee Sexual Abuse and Sexual Harassment covers the requirements of this standard. In discussions with the Human Resources staff, the Agency consistently does a criminal background check and prior institutional checks as a pre-employment application requirement. The Human Resources staff confirmed the process and was able to show the Auditor how the process is completed. The Auditor also was provided with examples of criminal background documents, including the documents on the five randomly selected files.

**Indicator (d).** As noted in indicator (a), the Massachusetts State Police do not employ the services of contractors or volunteers who would have contact with detainees

**Indicator (e).** Discussions with the Human resources staff support that staff have criminal background checks at the time of hire and at least every five years after that. The 5-year checks were met by documentation of the background checks of all employees in 2017. The Human Resources staff confirmed the process is done and how if new charges were found the information would be processed through the agency's command structure. The Auditor also spoke with the PREA Coordinator and the Human Resources Officer on options to further support compliance documentation.

**Indicator (f).** As noted in Indicator (a), all Newbury Station employees are asked to complete the Employee Application, which includes questions required in indicator a). The employees, after hire, also sign that they understand their duties for all policy requirements or divisional orders, including when they are updated. Employees interviewed supported they understood the requirement includes ongoing commitment to report misconduct.

**Indicator (g).** Contained in the PREA Employee Questionnaire is the following passage: "I, \_\_\_\_\_, hereby certify that all statements made in this questionnaire / interview are true and complete. I understand that false, incomplete, or misleading information given herein may be sufficient cause for disqualification from further consideration and/or termination from employment with the Department of State Police."

**Indicator (h).** The Massachusetts State Police allows for the agency, with proper releases of information, to disclose to other institutions any PREA related concerns. Interviews with Human Resources staff confirm they make requests of both internal and outside employers when hiring. The Human Resources Auditor stated police department or Jail might come on-site with appropriate releases to review the former employee's file. The Human Resource staff member understood the importance of attempting to obtain information from previous institutional employers.

#### **Compliance Determination:**

The Massachusetts State Police has policies in place to address the requirements of the standard, including the completion of background checks and pre-employment screening that supports the agency's efforts to screen out predatory candidates from employment. The Auditor interviewed the Human Resources staff at the Massachusetts State Police headquarters. All Troopers undergo thorough criminal and personal background checks. The Human Resource staff reports she works closely with agency management to ensure the line of communication is maintained. The Massachusetts State Police has implemented forms in policy to document staff understand the requirements related to the various indicators in this standard. The agency provided timely additional documentation when requested to support compliance. The Auditor was also able to review a random sample of staff at Newbury Station. Interviews with the Human Resource staff and PREA Coordinator further confirmed the process to ensure individuals who have engaged in sexual misconduct are not employed at Newbury Station or able to get a job at another correctional institution if that facility requests information. As outlined above, there were several factors used by the Auditor in determining compliance.

## **Standard 115.118: Upgrades to facilities and technologies**

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

**115.118 (a)**

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

**115.118 (b)**

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

**Auditor Overall Compliance Determination**

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

**Instructions for Overall Compliance Determination Narrative**

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

**Policies and written/electronic documentation reviewed.**

Newbury PreAudit Questionnaire  
DET-07 Detainee Sexual Abuse and Sexual Harassment PREA

**Individuals interviewed/ observations made.**

Interview with Station Commander  
Tour of facility  
Interview with PREA Coordinator.

### **Indicator Summary determination.**

**Indicator (a).** The Station Commander confirmed there had been no physical plant modifications in the past three years at this facility that would impact the inmate supervision. Discussions with the PREA Coordinator included how he should be a part of any modification plans to state facilities

**Indicator (b).** The Station Commander confirmed there had been no video or monitoring technology upgrades in the past three years inside this facility that would impact the inmate supervision. PREA Coordinator confirmed the state is working on body cameras, but they are not being tested at this station. The Auditor also confirmed a new GPS monitoring that will allow tracking of all detainees in transport to the station and to the court or other location as needed.

### **Compliance Determination**

The Auditor finds the standard is compliant. Interviews support systems to make requests related to staffing or technology exist, and that the PREA Coordinator would be a part of that conversation.

## RESPONSIVE PLANNING

### Standard 115.121: Evidence protocol and forensic medical examinations

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

#### 115.121 (a)

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

#### 115.121 (b)

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

#### 115.121 (c)

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

#### 115.121 (d)

- If the detainee is transported for a forensic examination to an outside hospital that offers victim advocacy services, does the agency permit the detainee to use such services to the extent available, consistent with security needs?  Yes  No



### 115.121 (e)

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

### 115.121 (f)

- Auditor is not required to audit this provision.

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

### Policies and written/electronic documentation reviewed.

Newbury PreAudit Questionnaire  
DET-07 Detainee Sexual Abuse and Sexual Harassment PREA  
INV-01 Criminal Investigations  
Evidence Handling and Submission Manual 10.1  
PREA Investigator Training  
Massachusetts Sexual Assault Law Enforcement Guidelines 2017  
Sexual Assault Evidence Collection Tracking Policy

### Individuals interviewed/ observations made.

Interview with Station Commander  
Interview with Criminal Investigator  
Interview with Random Staff

### Indicator Summary determination.

**Indicator (a).** The Massachusetts State Police is the responsible entity for investigating Sexual Abuse allegations in the MSP lockups. DET-07 states, "The Department shall ensure that an administrative or criminal investigation is completed for all allegations of detainee sexual abuse and/or sexual harassment." The Massachusetts State Police is the state's highest law enforcement agency and is responsible for completing PREA Investigation at its own facilities and the state's correctional facilities.

The state has several documents that direct investigators in the state of Massachusetts on the collection of evidence for use in criminal or administrative investigations. Though each barracks have law enforcement officers, all allegations will be investigated by individuals outside the station's command structure. This process further supports an objective investigatory process.

**Indicator (b).** The Auditor has reviewed the materials and state websites and confirmed with a local hospital representative with SANE nurses that the state has a statewide protocol that governs the hospital staff's evidence collection process. The Investigator also confirmed that there are statewide protocols for adult and juvenile victims. The Auditor reviewed the document for consistency with the National Protocols for Sexual Assault Medical Forensic Examinations. Victims of sexual abuse will be sent to one of the state's 29 hospitals. The Massachusetts document was developed in collaboration with individuals from medical, legal, law enforcement, scientific, SANE, victim advocacy, and mental health organizations.

**Indicator (c).** All victims of Sexual Abuse would be transported to a local hospital to check their overall health and to offer a forensic examination. The State Police Investigator confirms that each District has local hospitals where victims can transport for a forensic exam by a trained SAFE/SANE. The state has an up-to-date list of hospitals with trained staff. With over two dozen hospitals, the investigator is confident they can find a hospital with a SANE trained individual on duty.

**Indicator (d).** The Auditor confirmed with the investigator that any victim of sexual abuse would be allowed to be accompanied during the forensic exam. The Auditor spoke with a local hospital who confirmed their protocol has the nurse offer the victim the support of a rape crisis agency. This practice is consistent with the state's Protocol for sexual abuse forensic exams.

**Indicator (e).** The indicator is not applicable. Massachusetts State Police is responsible for completing both criminal and administrative investigations.

**Indicator (f).** The Auditor is not required to review this provider.

### **Compliance Determination**

The Auditor finds the standard has been met. The compliance determination is based on policy reviews, observations, documentation, web searches, and interviews with both MSP and hospital staff.

## **Standard 115.122: Policies to ensure referrals of allegations for investigations**

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

#### **115.122 (a)**

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

### 115.122 (b)

- If another law enforcement agency is responsible for conducting investigations of allegations of sexual abuse and sexual harassment in its lockups, does the agency have a policy in place to ensure that such allegations are referred for investigation to an agency with the legal authority to conduct criminal investigations, unless the allegation does not involve potentially criminal behavior? (N/A if agency is responsible for conducting administrative and criminal investigations of sexual abuse or sexual harassment. See 115.121(a).)  Yes  No  NA
- Has the agency published such policy, including a description of responsibilities of both the agency and the investigating entity, on its website or, if it does not have one, made the policy available through other means? (N/A if agency is responsible for conducting administrative and criminal investigations of sexual abuse or sexual harassment. See 115.121(a).)  Yes  No  NA
- Does the agency document all such referrals? (N/A if agency is responsible for conducting administrative and criminal investigations of sexual abuse or sexual harassment. See 115.121(a).)  Yes  No  NA

### 115.122 (c)

- Auditor is not required to audit this provision.

### 115.122 (d)

- Auditor is not required to audit this provision.

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

### Policies and written/electronic documentation reviewed.

Newbury PreAudit Questionnaire  
DET-07 Detainee Sexual Abuse and Sexual Harassment PREA  
INV-01 Criminal Investigations

**Individuals interviewed/ observations made.**

Interview with Colonel of Massachusetts State Police  
Interview with Criminal Investigator  
Interview with PREA Coordinator  
Random Troopers

**Indicator Summary determination.**

**Indicator (a).** The Massachusetts State Police have several policies that set forth the obligation for investigations of sexual abuse that occur in MSP’s lockups. The policy requires that “all allegations of sexual abuse or sexual harassment are referred for to an investigating agency with legal authority to conduct such criminal investigations, and less the behavior does not involve potentially criminal behaviors and to document all such referrals.” The state police do have the authority to investigate such crimes. The policy also requires that all investigators receive special training to investigate sexual abuse cases in a confinement setting. The Auditor reviewed the training documents and found that it included topics, such as sexual abuse evidence collection, interviewing victims of sexual abuse, the proper use of Miranda and Garrity warnings, and the criteria and evidence required to substantiate a case for administrative action or prosecutorial referral.

Random troopers interviewed supported they are required to refer all allegations of sexual abuse or sexual harassment for investigation. Interviews with the station commander and the investigator describe the immediate steps that would be taken once an allegation has been received. Any internal investigation that identifies criminal activity or involves a staff member would be immediately referred to the department’s division of investigative services, which will complete internal affairs investigations.

**Indicator (b).** The Indicator is not applicable. The Massachusetts State Police is Responsible for both criminal and administrative investigations.

**Indicator (c).** Auditor is not required to audit this provision.

**Indicator (d).** Auditor is not required to audit this provision.

**Compliance Determination**

The Auditor finds the standard has been met. The compliance determination is based on policy reviews, observations, documentation, web searches, and interviews with various MSP staff. Absent an actual investigation at a lockup, the Auditor had to rely on the investigator's knowledge of completing a sexual assault investigation. The Investigator described the steps he has undertaken in completing a PREA investigations at a state prison.

## TRAINING AND EDUCATION

### Standard 115.131: Employee and volunteer training

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

#### 115.131 (a)

- Does the agency train all employees and volunteers who may have contact with lockup detainees to be able to fulfill their responsibilities under agency sexual abuse prevention, detection, and response policies and procedures, including training on: Its zero-tolerance policy and detainees' right to be free from sexual abuse and sexual harassment?  Yes  No
- Does the agency train all employees and volunteers who may have contact with lockup detainees to be able to fulfill their responsibilities under agency sexual abuse prevention, detection, and response policies and procedures, including training on: The dynamics of sexual abuse and sexual harassment in confinement, including which detainees are most vulnerable in lockup settings?  Yes  No
- Does the agency train all employees and volunteers who may have contact with lockup detainees to be able to fulfill their responsibilities under agency sexual abuse prevention, detection, and response policies and procedures, including training on: The right of detainees and employees to be free from retaliation for reporting sexual abuse or harassment?  Yes  No
- Does the agency train all employees and volunteers who may have contact with lockup detainees to be able to fulfill their responsibilities under agency sexual abuse prevention, detection, and response policies and procedures, including training on: How to detect and respond to signs of threatened and actual sexual abuse?  Yes  No
- Does the agency train all employees and volunteers who may have contact with lockup detainees to be able to fulfill their responsibilities under agency sexual abuse prevention, detection, and response policies and procedures, including training on: How to communicate effectively and professionally with all detainees?  Yes  No
- Does the agency train all employees and volunteers who may have contact with lockup detainees to be able to fulfill their responsibilities under agency sexual abuse prevention, detection, and response policies and procedures, including training on: How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities?  Yes  No

#### 115.131 (b)

- Have all current employees and volunteers who may have contact with detainees received such training?  Yes  No

- Does the agency provide each employee and volunteer with annual refresher information to ensure that they know the agency’s current sexual abuse and sexual harassment policies and procedures?  Yes  No

**115.131 (c)**

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

**Auditor Overall Compliance Determination**

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

**Instructions for Overall Compliance Determination Narrative**

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

**Policies and written/electronic documentation reviewed.**

Newbury PreAudit Questionnaire  
 16-DSF-016 PRISON RAPE ELIMINATION ACT-PREA  
 16-SO-03 Distribution of Orders  
 17-DFS-034 PRISON RAPE ELIMINATION ACT-PREA  
 17-DFS-003 PRISON RAPE ELIMINATION ACT-PREA  
 DET-07 Detainee Sexual Abuse and Sexual Harassment  
 2019 On-line Training academy Materials  
 Acknowledgment of Specific Department Policy and Procedure form

**Individuals interviewed/ observations made.**

Interview with Random Staff  
 Interview with PREA Coordinator

**Indicator Summary determination.**

**Indicator a).** The Auditor reviewed the training materials used to educate employees when hired and during annual refreshers. The training materials examined contained all required elements of this indicator over the 45 slide PowerPoint. Employees are trained, and random staff interviews support an understanding of the agency’s zero-tolerance policy toward sexual misconduct. Policy DET-07 sets forth the training requirement elements “All employees and members who may have contact with lockup detainees shall receive training regarding:

- The Department's zero-tolerance policy and detainees' right to be free from sexual abuse and sexual harassment;
- How to fulfill their responsibilities regarding prevention, detection, reporting, and response to sexual abuse and sexual harassment;
- The right of detainees and employees to be free from retaliation for reporting sexual abuse and sexual harassment;
- The dynamics of sexual abuse and sexual harassment in confinement;
- The common reactions of sexual abuse and sexual harassment victims;
- How to detect and respond to signs of threatened and actual sexual abuse;
- How to avoid inappropriate relationships with detainees;
- How to communicate effectively and professionally with detainees, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming detainees; and
- Compliance with relevant laws related to mandatory reporting of sexual abuse."

The Random staff gave examples of what they do in their daily jobs that help protect, detect, and respond to incidents of sexual misconduct. The Troopers reported awareness of the detainee's and staff's rights to be able to report a concern without fear of retaliation. Staff were aware of individuals at greater risk and the symptoms of individuals who might be victims of abuse. A portion of the materials goes over staff standards of conduct, professional boundaries, and the mandatory responsibility to report individuals who violate the policy. Staff also were able to discuss what they learned about working with LGBTI inmates. Staff knew transgender and intersex detainees should be searched according to how they identify and using the preferred pronouns when speaking with them. The Troopers report they are given updates as policies are adjusted.

**Indicator (b).** The Massachusetts State Police trains individuals on an annual basis in PREA. Training records confirm information received through random staff interviews and informal questions the Auditor asked of staff during the tour. In addition to annualized formal training on PREA, the state put out training bulletins which all members must read and acknowledge. The same process occurred earlier this year when the PREA policies were reissued and all members sign off in 'paystation' acknowledging their understanding and receipt of the documents.

**Indicator (c).** The training records reviewed by the Auditor confirmed that staff signs an acknowledgment form that they understand the content of the training. The Auditor was also provided with examples of the acknowledgment forms corresponding to live training or policy distribution. The MSP also provides an Online Academy in which officers are required to review materials online and pass a competency test. Online education requires the Trooper to pass the test and acknowledge electronically they understand the materials presented. Policy DET-07 also addresses this requirement, "Every member or employee who may have contact with detainees shall acknowledge either in a written or electronic format that he or she understands the Department's PREA policies and protocols and the PREA training he or she has received."

### **Compliance Determination:**

The Auditor has determined the facility has appropriately trained its staff in the areas required in this standard. Newbury Station Troopers were well educated in the training topics mandated in the standard. Staff provided examples to the Auditor questions related to the required training elements. The Auditor reviewed facility policies and procedures, training curriculums, materials, training rosters, and acknowledgment forms. In addition to training its staff, it also requires them to pass a test. The Auditor reviewed training as part of the HR review of employee records. The facility provides training more often than the requirements of this standard as it trains staff annually. The training unit further supports ongoing training by publishing training bulletins periodically that reinforce PREA topics and

training modules. The Auditor determined compliance based on staff have retained the knowledge received from training, training materials, and staff training records. The Massachusetts State Police has been able to provide ongoing training to its staff during the COVID 19 crisis through the use of online course materials. New employees confirm they received classroom instruction while in the academy.

## Standard 115.132: Detainee, contractor, and inmate worker notification of the agency's zero-tolerance policy

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

### 115.132 (a)

- During the intake process, do employees notify all detainees of the agency's zero-tolerance policy regarding sexual abuse and sexual harassment?  Yes  No

### 115.132 (b)

- Does the agency ensure that, upon entering the lockup, all contractors and any inmates who work in the lockup are informed of the agency's zero-tolerance policy regarding sexual abuse and sexual harassment?  Yes  No

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

### Policies and written/electronic documentation reviewed.

Newbury PreAudit Questionnaire  
DET-07 Detainee Sexual Abuse and Sexual Harassment  
16-DFS-016 Prison Rape Elimination Act  
17-DFS-034 Prison Rape Elimination  
Training Bulletin 2020-32



**Individuals interviewed/ observations made.**

Interview with Troopers  
Interview with Station Commander

**Indicator Summary determination.**

**Indicator (a).** All Troopers are trained to ensure Detainee understands the Massachusetts State Police zero-tolerance policy toward sexual abuse, sexual harassment, or retaliation. Training materials direct Troopers, “At booking, you shall advise detainees of the Department’s Zero Tolerance to sexual abuse and sexual harassment.” Policy DET-07 includes language instructing Troopers to educate detainees. ‘Members shall take appropriate steps to ensure detainees an opportunity to benefit from all aspects of the Department’s efforts to prevent, detect, and respond to sexual abuse and sexual harassment.’ Signage is posted in the booking area, and the agency has brochures on PREA rights. All Troopers interviewed report they review PREA and how to report a concern during all bookings, not just for overnight stays.

**Indicator (b).** As noted previously, no contractors are allowed in the cellblock area if any detainees are present. The agency does not use detainees to perform work duties.

**Compliance Determination**

The Newbury Station is compliant with the standard expectation. The Auditor had to rely on policy and staff knowledge of expectations in making his determination. The absence of detainees from the overnight or through the booking prohibited direct verbal confirmation by the Auditor.

**Standard 115.134: Specialized training: Investigations**

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

**115.134 (a)**

- In addition to the general training provided to all employees pursuant to §115.131, does the agency ensure that, to the extent the agency itself conducts sexual abuse investigations, its investigators receive training in conducting such investigations in confinement settings? (N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.121(a).)  Yes  No  NA

**115.134 (b)**

- Does this specialized training include: Techniques for interviewing sexual abuse victims? (N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.121(a).)  Yes  No  NA
- Does this specialized training include: Proper use of Miranda and Garrity warnings? (N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.121(a).)  Yes  No  NA

- Does this specialized training include: Sexual abuse evidence collection in confinement settings? (N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.121(a).)  Yes  No  NA
- Does this specialized training include: The criteria and evidence required to substantiate a case for administrative action or prosecution referral? (N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.121(a).)  Yes  No  NA

#### 115.134 (c)

- Does the agency maintain documentation that agency investigators have completed the required specialized training in conducting sexual abuse investigations? (N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.121(a).)  Yes  No  NA

#### 115.134 (d)

- Auditor is not required to audit this provision.

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

#### **Policies and written/electronic documentation reviewed.**

Newbury PreAudit Questionnaire  
 DET-07 Detainee Sexual Abuse and Sexual Harassment  
 DET-07a Detainee Sexual Abuse and Sexual Harassment  
 Training materials for Criminal Investigator

#### **Individuals interviewed/ observations made.**

Interview with Criminal Investigator  
 Interview with PREA Coordinator

#### **Indicator Summary determination.**

## Summary Determination

**Indicator (a)** The Massachusetts State Police employs its own investigative body. The department 's Division of Investigative Services would be responsible for a criminal investigation of sexual abuse. Administrative investigations of staff actions or complaints are filed through the department's Division of Standards and Training, which includes the agency's internal affairs office. The MSP currently reports they have 93 investigators trained in completing PREA investigations, of which 21 work in the internal affairs unit. The Massachusetts State Police have the responsibility to complete PREA investigations at all state correctional facilities, Department of Youth Services facilities in addition to its own lockups.

**Indicator (b)** Policy DET-07A states the following on the requirement of specialized training for investigators. "Department Investigators shall receive special training in detainee sexual abuse and sexual harassment investigations according to Code of Federal Regulations (CFR) 28 § 115.34, to include:

- Techniques for interviewing sexually abused or sexually harassed victims;
- Proper use of Miranda and Garrity warnings;
- Sexual abuse evidence collection in confinement settings; and
- The criteria and evidence required to substantiate a case for administrative action or

prosecution referral." As such, MSP Detectives have received training in completing investigations consistent with the standard. The Training was developed with the Massachusetts Department of Corrections, where the State Police will conduct most PREA Investigations. The Massachusetts State Police provided an 8-hour training on completing sexual assault investigations in correctional settings. The training is in addition to the agency's standard investigative coursework required as part of police training. The Agency course reviewed by the Auditor contained all the relevant topics needed in this standard. The interview with a trained investigator and an intel staff member confirmed the training covered how to communicate with a victim of sexual assault and the use of Miranda and Garrity warnings. He also reported proper steps in collecting and preserving evidence and the factors in deciding of substantiation for administrative action or prosecutorial referral.

**Indicator (c)** Training records were provided for staff who completed the specialized investigations training. The Documentation showed over 100 staff originally took the class, of which 93 are currently employed.

**Indicator (d)** The Auditor is not required to review this indicator

## Compliance Determination:

The Massachusetts State Police ensures that staff who complete investigations have received appropriate specialized training on investigating sexual assault in a correctional setting. All MSP Investigators of sexual assault are trained law enforcement officers with specialized training in completing investigations in correctional settings. Each district of the state police has Investigators with the responsibility of conducting criminal investigations into sexual abuse cases. The agency's internal affairs unit also has staff trained in completing administrative investigations into staff actions that directly or indirectly lead to abuse.

Documents and interviews support that the investigators are trained in the requirements of a PREA related investigation. The MSP report they have 93 trained staff in completing a PREA Investigation. Absent a case to review, the Auditor relied on the training materials, policies, and interviews to support compliance.



# SCREENING FOR RISK OF SEXUAL VICTIMIZATION AND ABUSIVENESS

## Standard 115.141: Screening for risk of victimization and abusiveness

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

### 115.141 (a)

- If the lockup is not utilized to house detainees overnight, before placing any detainees together in a holding cell do staff consider whether, based on the information before them, a detainee may be at a high risk of being sexually abused? (N/A if the lockup is utilized to house detainees overnight.)  Yes  No  NA
- When appropriate, do staff take necessary steps to mitigate such danger to the detainee? (N/A if the lockup is utilized to house detainees overnight.)  Yes  No  NA

### 115.141 (b)

- If the lockup is utilized to house detainees overnight, are all detainees screened to assess their risk of being sexually abused by other detainees or sexually abusive toward other detainees? (N/A if lockup is NOT used to house detainees overnight.)  Yes  No  NA

### 115.141 (c)

- In lockups described in paragraph (b) of this section, do staff always ask the detainee about his or her own perception of vulnerability? (N/A if lockup is NOT used to house detainees overnight.)  Yes  No  NA

### 115.141 (d)

- Does the screening process in the lockups described in paragraph (b) of this section consider, to the extent that the information is available, the following criteria to screen detainees for risk of sexual victimization: Whether the detainee has a mental, physical, or developmental disability? (N/A if lockup is NOT used to house detainees overnight.)  Yes  No  NA
- Does the screening process in the lockups described in paragraph (b) of this section consider, to the extent that the information is available, the following criteria to screen detainees for risk of sexual victimization: The age of the detainee? (N/A if lockup is NOT used to house detainees overnight.)  Yes  No  NA
- Does the screening process in the lockups described in paragraph (b) of this section consider, to the extent that the information is available, the following criteria to screen detainees for risk of sexual victimization: The physical build and appearance of the detainee? (N/A if lockup is NOT used to house detainees overnight.)  Yes  No  NA
- Does the screening process in the lockups described in paragraph (b) of this section consider, to the extent that the information is available, the following criteria to screen detainees for risk of

sexual victimization: Whether the detainee has previously been incarcerated? (N/A if lockup is NOT used to house detainees overnight.)  Yes  No  NA

- Does the screening process in the lockups described in paragraph (b) of this section consider, to the extent that the information is available, the following criteria to screen detainees for risk of sexual victimization: The nature of the detainee's alleged offense and criminal history? (N/A if lockup is NOT used to house detainees overnight.)  Yes  No  NA

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

#### **Policies and written/electronic documentation reviewed.**

Newbury PreAudit Questionnaire  
17-DFS-003 Prison Rape Elimination Act  
17-DFS-034 Prison Rape Elimination Act  
DET-07 Detainee Sexual Abuse and Sexual Harassment  
DET-07A Detainee Sexual Abuse and Sexual Harassment  
Booking Screens with PREA Questions  
PREA Training Bulletin  
PREA Training Bulletin 20-32

#### **Individuals interviewed/ observations made.**

Interview with Random Troopers  
Interview with Desk Officer  
Interview with Station Commander

#### **Indicator Summary determination.**

**Indicator (a).** All Individuals who go through the booking process are screened for risk of victimization and abusiveness. The facility does not regularly hold individuals overnight, and most persons are released in under 6 hours. The Station Commanders confirmed the facility's attempts to evaluate all individuals in lockup and keep the contact at a minimum. The lockup allows the desk officer to have constant video and audio surveillance of the area. If one individual is seriously acting up, the agency reportedly can look to other barracks to move one or the other individual. The facility will not house both

males and females in the lockup at the same time. As noted in 115.114, Juveniles are not allowed in lockup and must be moved to a DYS approved facility if arrested.

**Indicator (b).** It is rare for detainees to be held overnight at the Newbury Station lockup. The Auditor asked random staff, who all potentially can complete a booking, on how individuals are screened for vulnerabilities or aggressive histories. The staff report they complete screenings and will document the concerns in the electronic case management file. The Auditor was able to see where the Trooper verifies that they have asked screening questions on the booking screens. The Newbury Station has 3 cells, all of which are designed for single occupancy. Staff report they will never put two individuals in a cell and closely monitor individuals at risk of abuse or have difficulties adjusting to the arrest. The Auditor confirmed that never would two detainees be out of their cells simultaneously or be out of the cell without a trooper present.

**Indicator (c).** Staff report they ask all individuals if they have any concern about their safety in custody. Though all detainees are in single-cells, they will try to separate individuals in the cells when possible. Once arrested, the detainee remains in the cell and would not be out at the same time as another detainee. Staff reported they watch closely for individuals who appear at greater risk emotionally. Troopers will provide extra tours into the cellblock, especially if there may be concerns about emotional stability. Officers reported they would call for an emergency health screening or have the detainee taken to a hospital if there is a suicidal concern.

**Indicator (d).** All Troopers are required to ask and document the following information on a detainee's risk factors no matter what time they are booked. The Training Material requires "At booking, you shall advise detainees of the department's zero-tolerance to sexual abuse and sexual harassment. Also, you shall screen all detainees to assess their risk of being sexually abused by other detainees or sexually abusive towards other detainees. The screening shall consist of: 1) asking the detainee about his or her perception of vulnerability e.g., "If you are placed in the cell do you have any concerns about your safety or about being abused in any way? and 2) assessing the detainee's risk of sexual abuse or sexual abuse of death by considering the following factors

- whether detainee has a mental physical or developmental disability
- the age of the detainee the physical build and appearance of the detainee
- whether the detainee has previously been incarcerated
- the nature of the detainees alleged offense in criminal history

You must consider whether a detainee is at high risk of being sexually abused or sexually abusive on a case-by-case basis." The Auditor reviewed several files and was provided copies of the 12 random booking reports showing the completed screenings.

### **Compliance Determination**

The Massachusetts State Police has in place the ability to screen individuals for risk of abuse or aggression. The staff interviewed are aware of the need to assess each detainee and provide additional monitoring as needed individually. Staff compared the steps taken to protect individuals at risk of suicide and the steps they would implore to keep a person safe. The agency attempts to limit the use of overnight custody, and when an individual cannot make bail, they will utilize county lockups if possible. Staff were able to describe actions to protect vulnerable individuals from even verbal aggression of others in lockup. If they believe the individual is higher risk they will keep close attention to the individual even if it means removing a staff person from the road to directly monitor the detainee. The Auditor finds the standard is compliant. In determining compliance, the Auditor relied on staff knowledge of required screening elements, examples of how they would utilize the information to protect individuals, policies, training materials provided, and the random records reviewed.

## REPORTING

### Standard 115.151: Detainee reporting

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

#### 115.151 (a)

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

#### 115.151 (b)

- Does the agency also provide at least one way for detainees to report sexual abuse or sexual harassment to a public or private entity or office that is not part of the agency?  Yes  No
- Is that private entity or office able to receive and immediately forward detainee reports of sexual abuse and sexual harassment to agency officials?  Yes  No
- Does that private entity or office allow the detainee to remain anonymous upon request?  Yes  No

#### 115.151 (c)

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

#### 115.151 (d)

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

#### Auditor Overall Compliance Determination

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



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

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

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

#### **Policies and written/electronic documentation reviewed.**

Newbury PreAudit Questionnaire  
DET-07 Detainee Sexual Abuse and Sexual Harassment  
16-DFS-016 Prison Rape Elimination Act  
17-DFS-003 Prison Rape Elimination Act  
17-DFS-034 Prison Rape Elimination Act

#### **Individuals interviewed/ observations made.**

Interview with PREA Coordinator

#### **Indicator Summary determination.**

**Indicator (a).** The State Police have set up multiple ways for detainees to report Sexual Abuse, Sexual harassment, retaliation, or staff neglect that may have contributed to an abuse incident. The Troopers are trained to educate all individuals they come in contact with through the booking process. Detainees can tell any trooper or supervisor they have contact with while in custody or after release. Detainees are provided information on filing a PREA Complaint through the citizen's complaint department, who would also notify the Agency PREA Coordinator. The Auditor filed an email through this process to the citizen complaint, and I received a return call.

**Indicator (b).** The Massachusetts State Police have set up the Attorney General's Office as an outside reporting entity that detainees could use to report a PREA related concern. The Office of the Attorney General is a public entity that is separate from the Massachusetts State Police. The phone call allows the detainees to remain anonymous if so requested. Upon receiving an alleged incident, this outside agency can immediately forward detainee reports of sexual abuse and sexual harassment to the Massachusetts State Police PREA Coordinator for investigation.

**Indicator (c).** In interviews with the Auditor, all Troopers confirm that they will accept allegations of sexual abuse or sexual harassment verbally, in writing, anonymously, from third parties and report the information to their supervisor or Station Commander. The Troopers describe various methods that detainees could use to report sexual abuse or sexual harassment. They also explained how detainees are educated about PREA information when they first arrive in the booking area. Though there were no detainees present when the Auditor toured the Newbury Station, the Auditor was able to see signage that informs detainees how to report a concern

**Indicator (d).** State Troopers have the option of submitting anonymous reports themselves to the Attorney General's Office or the MSP internal affairs office.

### Compliance Determination

The Massachusetts State Police have several policies and orders that direct staff to ensure all allegations of sexual abuse or sexual harassment are reported. These reports would also include any claims of retaliation or neglectful actions of an MSP staff member. The policy language describes internal and outside reporting methods. Staff demonstrated knowledge of the standards expectations. The staff knew the element they had to educate detainees on and the obligation to document all reports, no matter the source, and if they received it verbally, in writing, or anonymously. Based on the review of the agency's policies, observations the Auditor made during the facility tour, and interviews with staff, the Auditor has determined the standard has been achieved.

## Standard 115.154: Third-party reporting

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

#### 115.154 (a)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

### Policies and written/electronic documentation reviewed.

Newbury PreAudit Questionnaire  
DET-07 Detainee Sexual Abuse and Sexual Harassment  
DET-07a Detainee Sexual Abuse and Sexual Harassment

Agency Website

**Individuals interviewed/ observations made.**

Attorney General's Office  
MSP Citizen Complaint Line  
Interview with Random Troopers  
Postings in the facility.

**Indicator Summary determination.**

**Indicator (a).** There are multiple avenues for which the Massachusetts State Police may receive a third-party complaint. All Troopers interviewed knew they must take and forward for investigation all allegations of sexual misconduct no matter the source or their own beliefs as to the validity of the claim. The Detainees can see postings that inform them they can report a concern to the Attorney General Office or to the state police headquarters through the citizen response report.

**Compliance Determination**

There have been no reported PREA related complaints at the Newbury Station. The Auditor based compliance on interviews and the systems in place, which he was able to test to see if the inquiry was forwarded.

**OFFICIAL RESPONSE FOLLOWING A DETAINEE REPORT**

**Standard 115.161: Staff and agency reporting duties**

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

**115.161 (a)**

- Does the agency require all staff to report immediately and according to agency policy any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in an agency lockup?  Yes  No
- Does the agency require all staff to report immediately and according to agency policy any knowledge, suspicion, or information regarding retaliation against detainees or staff who reported such an incident?  Yes  No
- Does the agency require all staff to report immediately and according to agency policy any knowledge, suspicion, or information regarding any staff neglect or violation of responsibilities that may have contributed to an incident of sexual abuse or sexual harassment or retaliation?  Yes  No

**115.161 (b)**

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

#### 115.161 (c)

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

#### 115.161 (d)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the lockup does appropriate measures to prevent retaliation against individuals who report and/or cooperate with an investigation. information on specific corrective actions taken by the lockup.*

#### **Policies and written/electronic documentation reviewed.**

Newbury PreAudit Questionnaire

PRI-06 Prisoner Monitoring

DET-07 Detainee Sexual Abuse and Sexual Harassment

ADM-29 Workplace Violence

16-DFS-016

17-DFS-003

17-DFS-034

MA.GOV information on reporting abuse neglect of Juveniles and vulnerable persons

PREA Brochure

#### **Individuals interviewed/ observations made.**

Interview with Station Commander

Interview with Random Staff

PREA Posters in the facility

## **Indicator Summary determination.**

**Indicator (a).** Several policies and documents support the requirement that all knowledge, suspicion, or information about an incident of sexual assault or sexual harassment or retaliation against individuals who cooperated in an investigation is immediately reported. DET-07 Detainee Sexual Abuse and Sexual Harassment (page 2) states, "Alleged detainee sexual abuse and/or sexual harassment incidents, including third-party and anonymous reports, are reported to designated investigators." It goes on to state staff must take "appropriate measures to prevent retaliation against individuals who report and/or cooperate with an investigation." The expedience of this obligation is reiterated in Divisional Commander's Orders, which states, "All Department employees shall report to their immediate supervisor any knowledge, suspicion or information regarding detainee sexual abuse or sexual harassment that occurred within a Department lockup facility. All Department employees shall take immediate action to protect a detainee from imminent sexual abuse." Interviews with random Troopers at Newbury Station confirmed the understanding that all allegations of sexual assault, sexual harassment, or retaliation, no matter the source, must be reported immediately. Staff were able to describe the process by which an incident would be reported. The Staff also confirmed the reporting would occur immediately. Finally, in random interviews, the Auditor confirmed with the staff the obligation to report on a fellow co-worker's action or inactions that may have contributed to an incident of sexual misconduct.

**Indicator (b).** Random Troopers interviewed supported an understanding of protecting the investigation of a sexual abuse allegation by only sharing information with those charged with investigating the crime and the necessary supervisors to effectuate medical treatment. Policy DET-07 (page 7) states, "Staff shall not reveal any information related to a sexual assault to anyone other than to the extent necessary to make treatment and investigatory decisions."

**Indicator (c).** The Auditor reviewed materials on mandated reporting in Massachusetts for crimes against juveniles and vulnerable adults. The state website confirms that Police officers are all mandated reporters, and the appropriate agency responsible for the protected population must be notified promptly. Interview with the Station Commander and the PREA Coordinator confirmed how notifications are made to the proper agencies and how the State Police can charge an individual differently than in crimes against normal adults.

**Indicator (d).** The Divisional Commander Orders and Policy DET-07 s require staff to report all allegations, including third-party and anonymous sources for investigation. Interviews with random staff confirm this expectation is understood. The Station Commander says they take all allegations seriously and will ensure a thorough investigation is completed no matter the source of the complaint. He was able to explain how allegations can be made by third-party sources and the immediate response that would occur. The Auditor was able to file a complaint using the email address posted on the agency PREA brochures.

## **Compliance Determination**

The Massachusetts State Police has in place the appropriate resources following a detainee report of sexual abuse, harassment, or retaliation to ensure an investigation occurs. The agency has policies in place that address the standard requirements and has appropriately trained its staff on how to report any knowledge, suspicion or information regarding an incident of sexual abuse or sexual harassment that occurs at Newbury Station. The Auditor has found the standard has been met. In coming to this conclusion, the Auditor considered interviews with random staff and the Station Commander. Interviews

supported individuals are trained in the policy and procedures to ensure all allegations are investigated. The staff were aware of the importance of expedience reporting the incident, maintaining confidentiality to those with a need to know, and the duty to potentially report on a coworker whose action or inaction may have caused the abuse. The Auditor had to make the determination based on policy, interviews, and materials posted in the facility since there have been no investigations to review.

## Standard 115.162: Agency protection duties

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

#### 115.162 (a)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

#### Policies and written/electronic documentation reviewed.

Newbury PreAudit Questionnaire  
PRI-06 Prisoner Monitoring  
DET-07 Detainee Sexual Abuse and Sexual Harassment  
16-DFS-016  
17-DFS-034

#### Individuals interviewed/ observations made.

Interview with Colonel of the Massachusetts State Police  
Interview with Station Commander  
Random Staff

#### Indicator Summary determination.

**Indicator (a).** The Division Commanders Order 16-DFS-016 clearly states the employee's obligation to protect individuals in custody who are at imminent risk of sexual abuse. The order states, "All Department employees shall take immediate action to protect a detainee from imminent sexual abuse." Random staff were able to explain what they would do to eliminate the risk to the individual. The Station Commander and the Colonel of the Massachusetts State Police were able to describe further the steps taken to eliminate risk, including the potential transfer of an individual to another holding facility if needed. The operational practice is reportedly to never have two detainees out of the lockup cell at a given time. Most detainees do not leave the cells as a short-term facility until a court appearance or bonded out.

**Compliance Determination**

The Auditor finds the standard to have been met. The Newbury Station staff have been appropriately trained on how to handle imminent risk situations. They are aware of the importance of responding immediately and options they could take to resolve the situation. The Newbury Station does not often have large numbers of detainees at a time, so there is often an ability to keep individuals separated in the environment. Interviews with the Colonel of the Massachusetts State Police and Station Commander confirm the state's ability to move detainees if a significant conflict arises.

**Standard 115.163: Reporting to other confinement facilities**

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

**115.163 (a)**

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

**115.163 (b)**

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

**115.163 (c)**

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

**115.163 (d)**

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

**Auditor Overall Compliance Determination**

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

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

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

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

#### **Policies and written/electronic documentation reviewed.**

Newbury PreAudit Questionnaire  
DET-07 Sexual Assault and Sexual Harassment

#### **Individuals interviewed/ observations made.**

Interview with Colonel of the Massachusetts State Police  
Interview with Station Commander  
PREA Coordinator

#### **Indicator Summary determination.**

**Indicator (a).** Policy DET-07 Sexual Assault and Sexual Harassment addresses the standard's requirements on notification to outside agencies where abuse has occurred previously. The policy states on page 8 that "A member or employee who receives an allegation that a detainee was sexually abused and/or sexually harassed while confined at a non-Department facility, shall notify through channels: The Colonel/Superintendent; and the Department PREA Coordinator. Colonel/Superintendent shall 1 Notify the head of the facility or appropriate office of the agency where the alleged abuse occurred; 2 Make notification, as soon as possible, but no later than seventy-two (72) hours after receiving the allegation; and 3 Document such notification."

**Indicator (b).** As noted in Indicator a), the policy states notifications must be made within seventy-two (72) hours after receiving an allegation. Interviews with the Colonel of the Massachusetts State Police, PREA Coordinator, and the Station Commander confirmed time frame expectations. These individuals also confirmed Newbury Station received no abuse allegations in the past year regarding a crime at another facility.

**Indicator (c).** If notifications are made, the policy requires such notifications to be documented.

**Indicator (d).** Interview with the Massachusetts State Police Colonel confirmed the Massachusetts State Police commitment to ensuring all allegations of sexual misconduct will be investigated. The agency would utilize its internal affairs staff if the allegation included the staff of a barracks' involvement. The utilization of this process ensures the impartiality of the investigative process.

### **Compliance Determination**



Newbury Station has not reportedly received any complaints from a detainee about abuse at another correctional setting. The Station Commander reports that he has also not received any complaints from other institutions about any alleged sexual assaults or sexual harassment that has occurred at Newbury Station. Interview with the Colonel of the Massachusetts State Police, Station Commander, and the state PREA Coordinator all confirm an understanding of the standard expectations. The Auditor also reviewed the policy for compliance with the standard requirement. Based on interviews, policy, and absent prior complaints requiring notification or investigation, the standard is compliant.

## Standard 115.164: Staff first responder duties

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

#### 115.164 (a)

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

#### 115.164 (b)

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

### Auditor Overall Compliance Determination

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

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

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

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

#### **Policies and written/electronic documentation reviewed.**

Newbury PreAudit Questionnaire  
DET-07 Detainee Sexual Abuse and Sexual Harassment  
INV-01 Criminal Investigations  
PREA Training Bulletins  
PREA Training PowerPoints

#### **Individuals interviewed/ observations made.**

Interview with Random Staff

#### **Indicator Summary determination.**

**Indicator (a).** The Massachusetts State Police policy DET-07 Detainee Sexual Abuse and Sexual Harassment defines the steps of the first responding Trooper to an incident of sexual abuse. Page 4 of the policy states the requirements of the first responder:

The first law enforcement member to respond to a report of a sexual assault or sexual harassment shall:

- Immediately separate the alleged victim and abuser;
- Take immediate action to protect the detainee from substantial risk of imminent sexual abuse;
- Keep the detainee either with the officer or in the cell and under surveillance until a supervisor can investigate and determine any further actions to take to protect the detainee;
- Follow uniform evidence protocol that maximizes the potential for obtaining usable physical evidence including preserving and protecting any crime scene until appropriate steps can be taken to collect any evidence;
- If the abuse occurred within a time period that still allows for the collection of physical evidence, request that the alleged victim not take any action(s) that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating;
- Offer all victims access to forensic medical examinations performed by a Sexual Assault Forensic Examiner (SAFE), Sexual Assault Nurse Examiners (SANEs) or qualified medical practitioner without financial cost to the victim, if evidentiarily or medically appropriate;
- If the detainee is transported for a forensic examination to an outside hospital that offers victim advocacy services, ensure that the detainee be permitted to use such services to the extent available, consistent with security needs;
- Document all efforts to provide a SAFE or medical practitioner;
- Attempt to make a victim advocate from a rape crisis center or other facility available to the detainee if transported to a hospital or other medical facility

consistent with security needs; and

- Accompany the victim through the forensic medical examination process and interviews.

The Auditor also reviewed the training materials and completed random staff interviews to aid in the review of the standard element. Newbury Station has had zero incidents of sexual assault, requiring a staff to act as a first responder. All Troopers interviewed were able to describe the steps they would take as first responders consistent with the policy and standard expectation.

**Indicator (b).** Policy DET-07 further addresses the expected actions if the first responder is not a law enforcement officer. It states, “ If the first staff responder is not a law enforcement staff member, that responder shall: Request that the alleged victim not take any actions that could destroy physical evidence; and Immediately notify law enforcement staff.” Absent of any allegations in which a Trooper has acted as a first responder to a sexual assault claim, the Auditor considered the random staff interviews in determining compliance. All staff interviewed were able to explain steps they would take to keep a victim safe, to protect evidence, access treatment, and make proper notifications.

### **Compliance Determination**

The Massachusetts State Police has appropriately trained staff working at Newbury Station on how to respond as a first responder. The agency has a policy language consistent with the standard’s expectations. Absent an individual who had acted as a first responder and a corresponding investigation file to review; the Auditor had to rely on other materials to determine compliance. The Auditor reviewed the agency’s training materials, training bulletins and utilized random staff interviews to determine compliance. Random staff were able to lay out their responsibilities as a first responder to an allegation of sexual abuse. The staff described how they would separate the individuals, preserve the crime scene, and ensure physical evidence is maintained. They knew to request that the alleged victim and perpetrator take no action that would destroy evidence, including not eating, drinking, cleaning, or using the bathroom, if it can be prevented.

## **Standard 115.165: Coordinated response**

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

#### **115.165 (a)**

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

#### **115.165 (b)**

- If a victim is transferred from the lockup to a jail, prison, or medical facility, does the agency, as permitted by law, inform the receiving facility of the incident unless the victim requests otherwise? (N/A if the agency is not permitted by law to inform a receiving facility of an incident of sexual abuse, where a victim is transferred from the lockup to a jail, prison, or medical facility as a result of that incident.)  Yes  No  NA

- If a victim is transferred from the lockup to a jail, prison, or medical facility, does the agency, as permitted by law, inform the receiving facility of the victim's potential need for medical or social services unless the victim requests otherwise? (N/A if the agency is not permitted by law to inform a receiving facility of the victim's potential need for medical or social services, where a victim is transferred from the lockup to a jail, prison, or medical facility as a result of an incident of sexual abuse.)  Yes  No  NA

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

#### **Policies and written/electronic documentation reviewed.**

Newbury PreAudit Questionnaire  
DET-07 Detainee Sexual Abuse and Sexual Harassment  
DET-07A Detainee Sexual Abuse and Sexual Harassment  
MA General Laws – 41.97D Sexual Abuse Information Confidentiality

#### **Individuals interviewed/ observations made.**

Interview with Station Commander

#### **Indicator Summary determination.**

**Indicator (a).** The agency policy has put forth an agency-wide coordinated response plan for incidents of sexual abuse and sexual harassment cases. Policy DET-07 Detainee Sexual Abuse and Sexual Harassment pages 5 to 7 define the coordinated efforts to respond to the allegations. The Policy addresses staff's responsibilities at eight different levels of the agency, from the first responder, the management staff at the Station, the investigators to agency management. Interview with Station staff and management supports an understanding of how to implement the coordinated response plan. (the Auditor made a recommendation on including information on what local hospitals with SANEs and contact information for advocacy services should be listed)

**Indicator (b).** The Coordinated response plan charges the station's Duty Officer to "In the event that the victim is transferred from the lockup to a jail, prison, or medical facility, ensure that the receiving facility is informed of the incident and the victim's potential need for medical or social services unless the victim requests otherwise.". There were no instances where Newbury Station staff had to transfer a

victim to the local hospital for a sexual assault examination due to an incident in the State Police's custody. There was nothing in the state laws reviewed by the Auditor that prevents the notification of the hospital

### **Compliance Determination**

The Massachusetts State Police has put in place a coordinated plan that can help staff ensure a consistent process to respond to incidents of sexual assault. The Auditor reviewed the policy and spoke with staff who were aware of the plan and their respective duties. The information provided and interviews support a determination of compliance for this standard.

## **Standard 115.166: Preservation of ability to protect detainees from contact with abusers**

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

#### **115.166 (a)**

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

#### **115.166 (b)**

- Auditor is not required to audit this provision.

### **Auditor Overall Compliance Determination**

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

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

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

### **Policies and written/electronic documentation reviewed.**

Newbury PreAudit Questionnaire

17-DSF-034  
Collective Bargaining Agreement  
Article 6

**Individuals interviewed/ observations made.**

Interview with Colonel of the Massachusetts State Police  
Interview with Station Commander

**Indicator Summary determination.**

**Indicator (a).** Article 6 is a state policy that outlines the regulations established for disciplinary procedures and temporary relief of duty. The document outlines the ability of the command staff within the State Police to put an employee out of work on administrative leave if they are “the subject of a criminal investigation, is arrested, or indicted.” The policy state leave can occur if “the individual is “the subject of an internal investigation.” The Auditor reviewed the various employment contracts that cover the staff working at Newbury station. The Colonel of the Massachusetts State Police and the Station Commander confirm the ability to put employees out of work on administrative leave. The Newbury Station Commander reports that there were no instances in this audit cycle that an employee at Newbury Station has been put out of work to protect an alleged victim of sexual assault from contact.

**Indicator (b).** The Auditor is not required to review this indicator.

**Compliance Determination**

The provided contractual documents and policies support the ability to protect victims from their abuser if staff are the allegation's subject. Interview support the Massachusetts State Police ability to place an employee out of work who is a subject of an allegation of sexual abuse of a detainee. The Auditor finds the standard to be compliant based on the stated factors.

## Standard 115.167: Agency protection against retaliation

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

#### 115.167 (a)

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

#### 115.167 (b)

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

### 115.167 (c)

- Except in instances where the agency determines that a report of sexual abuse is unfounded, does the agency: Monitor the conduct and treatment of detainees or staff who have reported sexual abuse?  Yes  No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, does the agency: Monitor the conduct and treatment of detainees who were reported to have suffered sexual abuse?  Yes  No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, does the agency: Act promptly to remedy any such retaliation?  Yes  No

### 115.167 (d)

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

### 115.167 (e)

- Auditor is not required to audit this provision.

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

Newbury PreAudit Questionnaire

**Policies and written/electronic documentation reviewed.**

PRI-06 Prisoner Monitoring

DET-07 Detainee Sexual Abuse and Sexual Harassment

17-DFS-003

17-DFS-034

**Individuals interviewed/ observations made.**

Interview with Colonel of Massachusetts State Police

Interview with Station Commander

**Indicator Summary determination.**

**Indicator (a).** The Massachusetts State Police has designated the responsibility of monitoring the retaliation of individuals who report or cooperate with investigations of sexual abuse or sexual harassment of a detainee to the Station Commander. Policy DET-07 Detainee Sexual Abuse and Sexual Harassment (page 11) states, “each Barracks Station Commander shall monitor all employee(s) who report sexual abuse or sexual harassment to ensure that the employee(s) are not subject to retaliatory actions by other employees and shall document the same.” Detainees are rarely held for more than one day in a lockup. It would be unlikely that a detainee victim would remain in the facility for any significant period. Station Commander supports close supervision of the victim until custody can be turned over to the correctional or court systems.

**Indicator (b).** The MSP has at its services multiple measures in place to protect victims and provide emotional support to staff who fear retaliation for reporting or cooperating in an investigation of a coworker’s sexual assault or sexual harassment of a detainee. Policy DET-07 (page 11) states, “Supervisors who receive reports of retaliation shall employ multiple protection measures which may include:

- Cell changes or transfer of detainee victims or abusers
- Removal of Alleged staff or detainee from contact with victims:
- Providing emotional support services for detainees or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations and/or
- Closely monitoring detainee or staff retaliation.”

Interviews with the Colonel of the Massachusetts State Police and the Newbury Station Commander confirms the steps outlined in the policy would be put into action if there was a concern about potential retaliatory actions.

Indicator (c). As noted in Indicator (a), the Station Commander is responsible for monitoring detainee victims and staff who fear retaliation. The Station Commander described what he would look at in considering if a staff person were being retaliated against. He was able to explain that staff would be spoken with periodically, and he would review duty assignments and performance reviews.

Indicator (d) As noted in Indicator (a), the MSP has in place several options to support any individual who cooperates in the investigation of sexual abuse of a detainee. Interviews with the Colonel of the Massachusetts State Police and the Station Commander supports they have sufficient resources at their hands to protect any individual who fears retaliation.

Indicator (e). The Auditor is not required to consider this provision

**Compliance Determination**

The Massachusetts State Police leadership believes they have sufficient resources to protect detainee victims, staff reporters, and staff who cooperate in sexual misconduct investigations. The Colonel of the Massachusetts State Police and the station were able to explain the multiple steps in place that could protect both staff and detainees from retaliation. The Agency has in place a policy that outlines the expectations of this standard, and the interviewees were descriptive on how the monitoring would be completed by the Station Commander and documented. Since the facility has not had an incident that



required retaliation monitoring, the Auditor had to rely on interviews and policy statements to determine compliance.

## INVESTIGATIONS

### Standard 115.171: Criminal and administrative agency investigations

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

#### 115.171 (a)

- When the agency conducts its own investigations into allegations of sexual abuse and sexual harassment, does it do so promptly, thoroughly, and objectively? (N/A if the agency/lockup is not responsible for conducting any form of criminal OR administrative sexual abuse investigations. See 115.121(a).)  Yes  No  NA
- Does the agency conduct such investigations for all allegations, including third party and anonymous reports? (N/A if the agency/lockup is not responsible for conducting any form of criminal OR administrative sexual abuse investigations. See 115.121(a).)  Yes  No  NA

#### 115.171 (b)

- Where sexual abuse is alleged, does the agency use investigators who have received specialized training in sexual abuse investigations as required by 115.134?  Yes  No

#### 115.171 (c)

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

#### 115.171 (d)

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

#### 115.171 (e)

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

#### 115.171 (f)

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

#### 115.171 (g)

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

#### 115.171 (h)

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

#### 115.171 (i)

- Does the agency retain all written reports referenced in 115.171(f) and (g) for as long as the alleged abuser is incarcerated or employed by the agency, plus five years?  Yes  No

#### 115.171 (j)

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

#### 115.171 (k)

- Auditor is not required to audit this provision.

#### 115.171 (l)

- When an outside agency investigates sexual abuse, does the agency cooperate with outside investigators and endeavor to remain informed about the progress of the investigation? (N/A if

an outside agency *never* conducts administrative or criminal sexual abuse investigations. See 115.121(a.)  Yes  No  NA

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

#### **Policies and written/electronic documentation reviewed.**

ADM 14 Personnel Investigation  
AMD 15 Internal Affairs  
ADM 18 Anti-Harassment, Sexual Harassment and Discrimination  
ADM 29 Workplace Violence  
ECU-D001 Evidence Handling and Submission Manual  
ECU-D006 Sexual Assault Evidence Collection Kit  
INV-01 Criminal Investigations  
DET-07 Detainee Sexual Abuse and Sexual Harassment  
Article 6  
Evident Collection standards for Massachusetts  
INV-10 Evidence Collection and Preservation  
INV-11 Control and Storage of Evidence  
INV-11A Property and Contraband  
State of Massachusetts Record Retention Rules

#### **Individuals interviewed/ observations made.**

Interview with Investigator  
Interview with PREA Coordinator  
Interview with Colonel of Mass. State Police.  
Interview with Random Troopers  
MSP Officer responsible for receiving third party complaints  
Posting in Facility

#### **Indicator Summary determination.**

**Indicator (a).** The Massachusetts State Police is responsible for investigating all criminal and administrative investigations at its lockup facilities. Policy DET-07 states, "The Department shall ensure

that an administrative or criminal investigation is completed for all allegations of detainee sexual abuse and/or sexual harassment.”. The Investigator confirmed that an individual with his training in investigating sexual abuse claims in correctional settings are assigned to each district and is on call to respond to allegations. The agency has 93 officers trained in completing the investigation in the lockup, of which 21 are authorized to conduct Internal Affairs Investigations if the accused is a Trooper. All troopers interviewed were aware they must report all allegations, including those from third parties. The MSP has set up a citizen complaint line, where third-party allegations can be filed. The Auditor called the number located on the MSP website and received a return call. The same number is also posted in the lockup facilities.

**Indicator (b).** As stated in 115.134, the Massachusetts State Police has trained 93 officers in Investigations of Sexual abuse claims in correctional settings. The training was a collaborative process involving other state agencies, including the District Attorney’s Office and the Department of Correction.

**Indicator (c).** There have been no allegations of sexual abuse at Newbury Station. As a result, the Auditor had to rely on the training materials presented in 115.134 and the Investigator’s related experience in completing PREA investigations at the Massachusetts Department of Corrections facilities. The Investigator was able to describe the steps taken to preserve and collect evidence. He reports that he would interview all individuals present as part of the investigation, review written statements, historical complaints, and review any electronic surveillance data available.

**Indicator (d).** The Investigators assigned to complete allegations at MSP barracks work out of the District Attorney’s offices. According to the Investigator interviewed, there would be close communication with the prosecutorial authorities throughout the case, including if compelled interviews would be required.

**Indicator (e).** The investigator confirmed that the individual’s status as a detainee or Trooper would not be a determining factor in the credibility of statements. He reports that all evidence is reviewed in addition to interview statements for consistency. The Auditor also confirmed that lie-detectors or other truth-telling devices are not required of a detainee to proceed with the investigation.

**Indicator (f).** There have been no allegations of sexual misconduct that would have resulted in an administrative investigation at Newbury Station. Random staff interviewed knew that they must report on a co-worker’s action or inaction that led to a sexual abuse incident. The Colonel and the Investigator interviewed both supported an administrative investigation will be completed whenever a staff is involved. The Colonel reports he requires a preliminary report on the investigation status within four days of the allegation. Each Administrative investigation would include a final written report, which would then be reviewed through the MSP command structure, including the PREA Coordinator.

**Indicator (g).** The Criminal Investigator reported he would document in a written report his finding to be presented to the agency administration and to the prosecuting authorities. He confirmed the report would contain a thorough description of the physical, testimonial, and documentary evidence, including logs and electronic evidence.

**Indicator (h).** As noted in Indicator (f), the administrative investigations would result in a written report with a determination based on the evidence presented and the author’s conclusion. The Auditor confirmed that Administrative Investigations would also seek to determine if staff actions or inaction played any role in the abuse.

**Indicator (i).** According to the Massachusetts Records Retention Requirements, documents involving allegations of rape must be kept for a period of 50 years. The Investigator and the PREA Coordinator are aware of the state's record retention requirements.

**Indicator (j).** The Auditor confirmed that the detainee leaving custody or the staff person leaving employment would not cause an investigation to be halted. Given the short time detainees are in custody, the Auditor was assured the same investigative steps would be taken even if the individual reported the PREA complaint after being released.

**Indicator (k).** The Auditor is not required to audit this provision

**Indicator (l).** Massachusetts State Police is responsible for both criminal and administrative investigations at its facilities

### **Compliance Determination**

The Massachusetts State Police have sufficient resources available to ensure that all allegations are investigated promptly and thoroughly. The agency has a large pool of trained investigators who can complete investigations in the state's lockups. However, there were no case files to review at Newbury Station. The Investigator interviewed had experience in completing PREA investigations at state correctional environments. The Auditor determined compliance based on policy, the documentation provided, training records from 115.134, and interviews.

## **Standard 115.172: Evidentiary standard for administrative investigations**

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

#### **115.172 (a)**

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

### **Auditor Overall Compliance Determination**

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

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

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

**Policies and written/electronic documentation reviewed.**

ADM-14 Personnel Investigations  
ADM-15 Internal Affairs  
INV-10 Evidence Collection and Preservation  
INV-11 Control and Storage of Evidence  
INV-11A Property and Contraband  
DET-07 Detainee Sexual Abuse and Sexual Harassment  
Article 6  
Evident Collection standards for Massachusetts

**Individuals interviewed/ observations made.**

Interview with Investigator  
Interview with Colonel of MSP

**Indicator Summary determination.**

**Indicator (a).** The Criminal Investigator confirmed a parallel administrative investigation undertaken by the agency's internal affairs office if the allegation involves a staff member. He reported if in his investigation of the criminal case, he believes there is evidence that staff actions or inactions played a part in the abuse, that information will be provided to the individual completing the administrative investigation. The investigator confirmed that there is no higher standard for administrative investigation than the preponderance of the evidence. Agency policy states a sustained allegation is one in which "The complaint or incident is supported by sufficient evidence to prove employee misconduct."

**Compliance Determination**

The Massachusetts State Police does not apply a higher standard than a preponderance of evidence in administrative investigations. Administrative Investigations policies define serious misconduct to include criminal conduct and civil rights violations and how they are determined. Policies and interviews were used to determine compliance.

**DISCIPLINE**

**Standard 115.176: Disciplinary sanctions for staff**

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

**115.176 (a)**

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

### 115.176 (b)

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

### 115.176 (c)

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

### 115.176 (d)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

#### **Policies and written/electronic documentation reviewed.**

DET-07 Detainee Sexual Abuse and Sexual Harassment  
ADM-29 Workplace Violence  
Article 5 Rules of Conduct  
Appendix A Discipline Guidelines

#### **Individuals interviewed/ observations made.**

Interview with Colonel of Massachusetts State Police  
Interview with PREA Coordinator

### Indicator Summary determination.

**Indicator (a).** Massachusetts State Police Policy DET-07 states, “Any member or employee determined to have engaged in sexual abuse or sexual harassment of detainees as defined by the policy shall be subject to discipline. The presumptive sanction for having engaged in prohibited behavior under this policy is termination.” The agency’s Article 5 Rules of Conduct describes the professional expectations of members of the department. “Members shall maintain a level of conduct in their personal and business affairs which is in keeping with the highest standards of the law enforcement profession. Members shall not participate in any act which impairs their ability to perform as members of the State Police or causes the State Police to be brought into disrepute”. There have been no individuals at Newbury Station that have been disciplined for engaging in sexual misconduct with a detainee.

**Indicator (b).** As noted in Indicator (a), staff who engage in the sexual abuse of a detainee will be disciplined, and the presumptive sanction will be termination. The discipline policy defines sexual abuse as a Class A violation reserved for discipline that can cause termination on the first offense. The Massachusetts State Police Colonel confirmed that termination would be the state police’s presumptive action for individuals who sexually abuse detainees, and criminal charges would be sought.

**Indicator (c).** The Massachusetts State Police have a range of discipline that can be imposed for staff who engage in conduct that would not be considered criminal. The Auditor reviewed the policy and confirmed with the Station Commander that no individuals had been disciplined for such behavior. Discipline ranges from written reprimands to various length suspensions and up to termination if there has been another prior discipline.

**Indicator (d).** Massachusetts State Police is a law enforcement agency. The Department does not employ individuals with medical or mental health licenses.

### Compliance Determination

Newbury Station has not had any discipline of its staff for violating the agency’s zero-tolerance policy. Staff members interviewed understood the consequences for individuals who violate the agency’s PREA Policy. All staff confirmed an obligation to report such behavior and the responsibility to report a fellow trooper’s actions or inactions that may have led to the sexual abuse. Interviews with the agency’s PREA Coordinator and the Colonel of MSP confirmed the agency’s intention to pursue criminal and disciplinary actions against staff who engage in sexual misconduct with detainees.

## Standard 115.177: Corrective action for contractors and volunteers

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

#### 115.177 (a)

- Is any contractor or volunteer who engages in sexual abuse prohibited from contact with detainees?  Yes  No
- Is any contractor or volunteer who engages in sexual abuse reported to: Law enforcement agencies unless the activity was clearly not criminal?  Yes  No



- Is any contractor or volunteer who engages in sexual abuse reported to: Relevant licensing bodies?  Yes  No

#### 115.177 (b)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

#### **Policies and written/electronic documentation reviewed.**

DET-07 Detainee Sexual Abuse and Sexual Harassment  
DET-07A Detainee Sexual Abuse and Sexual Harassment  
INV-01 Criminal Investigations

#### **Individuals interviewed/ observations made.**

Interview with Station Commander

#### **Indicator Summary determination.**

##### **Indicator (a).**

The Newbury Station does not employ any contractors or volunteers who have contact with detainees. Agency policy requires all claims of sexual abuse will be investigated. The facility would bar an individual's access if there was a claim of sexual abuse by a contractor or volunteer. A victim's maximum length of stay would be three days on a holiday weekend at the Newbury Station temporary lockup. As a law enforcement agency, the Massachusetts State Police Division of Investigative Services would respond to complete the criminal investigation in conjunction with the Attorney General's Office. Interview with the Investigator confirmed all cases would be investigated, including if volunteers or contractors had access to inmates. The state would prosecute individuals, and if the individual was licensed, the appropriate certification board is notified.

**Indicator (b).**

As noted in Indicator (a), Newbury Station does not employ volunteers or contractors' services.

**Compliance Determination**

The Auditor finds the standard is compliant. The Massachusetts State Police has in place appropriate policies that include the education of contractors and volunteers if they would decide to utilize them. If an outside contractor was needed to work on plumbing, cameras, etc., in the lockup area, it would only occur when the lockup was reportedly empty.

**Standard 115.178: Referrals for prosecution for detainee-on-detainee sexual abuse**

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

**115.178 (a)**

- When there is probable cause to believe that a detainee sexually abused another detainee in a lockup, does the agency refer the matter to the appropriate prosecuting authority?  
 Yes    No

**115.178 (b)**

- If the agency itself is not responsible for investigating allegations of sexual abuse, does the agency inform the investigating entity of this policy? (N/A if the agency/facility is responsible for conducting both administrative and criminal investigations of sexual abuse. See 115.121(a).)  
 Yes    No    NA

**115.178 (c)**

- Auditor is not required to audit this provision.

**Auditor Overall Compliance Determination**

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

**Instructions for Overall Compliance Determination Narrative**

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the lockup does*

*not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the lockup.*

**Policies and written/electronic documentation reviewed.**

INV-01 Criminal Investigations

DET-07A Detainee Sexual Abuse and Sexual Harassment Investigations, Review, and Data Collection

**Individuals interviewed/ observations made.**

Interview with Criminal Investigator

Interview with PREA Coordinator

Interview with Colonel of Massachusetts State Police

**Indicator Summary determination.**

**Indicator (a)** Once an allegation of sexual abuse has occurred to an individual in MSP custody, a trained officer in completing criminal investigations in correctional settings will be notified. The Criminal Investigator interviewed supported that they are on call and would report immediately to the scene. At that point, they are in charge of the investigation, and it makes the determination after a review of the evidence, including the testimony of the victim and witness, if probable cause exists. If it is determined, then the case is referred for prosecution. Policy DET-07A Detainee Sexual Abuse and Sexual Harassment Investigations, Review, and Data Collection, states, "When there is probable cause to believe that a detainee or a Department employee had sexual contact with another detainee in a holding cell, the Department will make a criminal referral to the District Attorney's Office of jurisdiction or to the Attorney General's Office."

**Indicator (b)** This indicator does not apply to the Massachusetts State Police, who are responsible for investigating both criminally and administratively any allegation of sexual abuse of a detainee in their custody. The investigation is performed by Troopers who are trained in completing investigations in correctional settings. These individuals are assigned to work out of the District Attorney's office, so they are separate from the local barracks command structure, further supporting the investigative process's impartiality.

**Indicator (c)** The Auditor is not required to review this provision

**Compliance Determination**

Since there has been no allegation of sexual abuse of an individual at Newbury Station, the Auditor had to rely on policy and interviews to determine compliance. The Massachusetts State Police have in place the appropriate steps to ensure all allegations of Sexual Abuse or Sexual harassment are investigated. The investigator interviewed described the steps taken in an investigation, including the referral for prosecution. The Colonel of the Massachusetts State Police also outlined for the Auditor how once probable cause determination is made, the Investigator will work with either the District Attorney or the Massachusetts Attorney General's office to ensure the case is referred for prosecution.

**MEDICAL AND MENTAL CARE**

## Standard 115.182: Access to emergency medical and mental health services

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

### 115.182 (a)

- Do detainee victims of sexual abuse in lockups receive timely, unimpeded access to emergency medical treatment?  Yes  No

### 115.182 (b)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

#### **Policies and written/electronic documentation reviewed.**

DET-07 Detainee Sexual Abuse and Sexual Harassment

DET-07A Detainee Sexual Abuse and Sexual Harassment Investigations, Review, and Data Collection

PRI-06 Prisoner Monitoring

Massachusetts Department of Health Website

#### **Individuals interviewed/ observations made.**

Interview with Station Commander

Interview with Troopers

Interview with Criminal Investigator

#### **Indicator Summary determination.**

**Indicator (a).** The Massachusetts State Police have several policies that direct Troopers to ensure that victims of sexual abuse are provided unimpeded access to care. The Troopers are directed to "Offer all

victims access to forensic medical examinations performed by a Sexual Assault Forensic Examiner (SAFE), Sexual Assault Nurse Examiners (SANEs) or qualified medical practitioner without financial cost to the victim, if evidentiarily or medically appropriate.” Troopers report that they would call for Emergency Medical Technicians (EMT) to assess the detainee and transport the potential victim to a local hospital in any medical situation. The Massachusetts state government website has a list of all hospitals with access to SAFE/SANE-trained staff. If the allegation occurs when the Station Commander is not present, the Troop Duty Officer will be notified. The Prisoner Monitoring policy (PRI-06) also supports that individuals needing medical care are to be transported by EMT’s to the local hospital for care. The Investigator also reports that he would require victims of sexual abuse taken to a hospital with a SAFE/SANE trained staff on duty in his response.

**Indicator (b).**

Massachusetts State Police policy DET-07 states, “Offer all victims access to forensic medical examinations performed by a Sexual Assault Forensic Examiner (SAFE), Sexual Assault Nurse Examiners (SANEs) or qualified medical practitioner without financial cost to the victim, if evidentiarily or medically appropriate.”. The Massachusetts Dept of Public Health website confirms there is no cost for the treatment of victims of sexual assault. The state Victim Compensation Fund provides the funds. The statement includes, “If a victim does not have insurance or if their existing coverage does not cover any or all costs of the medical exam, the total amount (including the patient’s co-payments and/or deductibles), should be submitted to the VCAD.”

**Compliance Determination**

The Auditor has determined the standard has been met. The Massachusetts State Police have in place policy and procedures to support compliance. Absent an allegation, the Auditor relied on the Troopers' knowledge on how they would handle getting a victim medical treatment. Through other state agency websites, the Auditor confirmed that forensic exam cost, consistent with MSP policy, would not be the victim's responsibility. Standard compliance determination was based on interviews and materials reviewed.

**DATA COLLECTION AND REVIEW**

**Standard 115.186: Sexual abuse incident reviews**

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

**115.186 (a)**

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

**115.186 (b)**

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

### 115.186 (c)

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

### 115.186 (d)

- Does the review team: Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse?  Yes  No
- Does the review team: Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; gang affiliation; or other group dynamics at the lockup?  Yes  No
- Does the review team: Examine the area in the lockup where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse?  Yes  No
- Does the review team: Assess the adequacy of staffing levels in that area during different shifts?  Yes  No
- Does the review team: Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff?  Yes  No
- Does the review team: Prepare a report of its findings, including but not necessarily limited to determinations made pursuant to §§ 115.186(d)(1) - (d)(5), and any recommendations for improvement and submit such report to the lockup head and agency PREA coordinator?  Yes  No

### 115.186 (e)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the lockup does*

*not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the lockup.*

### **Policies and written/electronic documentation reviewed.**

DET-07 Detainee Sexual Abuse and Sexual Harassment

DET-07A Detainee Sexual Abuse and Sexual Harassment Investigations, Review, and Data Collection

### **Individuals interviewed/ observations.**

Interviews with Colonel of the Massachusetts State Police

Interview with PREA Coordinator

Interview with facility Station Commander

### **Indicator Summary Determination**

**Indicator (a)** Policy DET-07A Detainee Sexual Abuse and Sexual Harassment Investigations, Review, and Data Collection (page3) sets forth the requirement of an incident review on all cases of sexual misconduct unless the investigation has determined the allegation was unfounded. The policy states, “The PREA Coordinator in consultation with the incident review team, which shall include the Station Commander, PREA Coordinator, and other pertinent individuals shall conduct a sexual abuse incident review at the conclusion of every investigation into allegations of sexual abuse of a detainee in Department custody.” The Auditor was unable to review any Incident Review documentation as Newbury Station has had no cases of Sexual Abuse in the past three years. The Auditor discussed with both the Agency PREA Coordinator and the Station Commander the review's required elements.

**Indicator (b)** The policy PR I-07A requires, “Such review shall ordinarily occur within 30 days of the conclusion of the investigation such review will be conducted even when the allegation has not been substantiated unless the allegation has been determined to be unfounded.” Absent an incident to review, the Auditor can only base finding on policy and staff knowledge of timeliness of the review required.

**Indicator (c)** As noted in Indicator (a), MSP policy DET-07A sets forth the requirement of a multidisciplinary team that would include both the station commander and the PREA Coordinator and other pertinent individuals to the investigation.

**Indicator (d)** The elements described in this indicator are all covered in policy DET-07A. which states, “The review will:

- Include input from supervisors and investigators as necessary;
- consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect or respond to sexual contact;
- consider whether the incident or allegation was motivated by bias or gang affiliation;
- examine the area where the incident allegedly a curd to assess whether physical barriers in the area may enable abuse;
- assess the adequacy of staffing levels in the area during different shifts; And
- assess whether monitoring technologies should be diploid or augmented to supplement supervision by staff. “

The Auditor suggested the development of a form to document the review panel's considerations includes the required information listed above. Absent a case to review; the Auditor relied on policy and interviews.

**Indicator (e)** Interviews with the Station Commander, The PREA Coordinator and the Colonel of the State Police support systems are in place to ensure information from the review can be used to make changes in a facility or agency when needed.

### **Compliance Determination**

The Massachusetts State Police policy requires the completion of the steps outlined in this standard. The policy outlines the steps to provide for a critical incident review on all PREA sexual assault cases. The policy requires what information needs to be part of the incident review with language directly from standard. Compliance was determined, absent an incident review, based on policy language, the documentation provided, and staff understanding of the requirements.

## Standard 115.187: Data collection

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

#### 115.187 (a)

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

#### 115.187 (b)

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

#### 115.187 (c)

- Does the incident-based data include, at a minimum, the data necessary to answer all questions from the most recent version of the Local Jail Jurisdictions Survey of Sexual Violence conducted by the Department of Justice, or any subsequent form developed by the Department of Justice and designated for lockups?  Yes  No

#### 115.187 (d)

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

#### 115.187 (e)

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

#### 115.187 (f)

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

### Auditor Overall Compliance Determination

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



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

### Instructions for Overall Compliance Determination Narrative

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

#### **Policies and written/electronic documentation reviewed.**

##### **Policies and written/electronic documentation reviewed.**

DET-07A Detainee Sexual Abuse and Sexual Harassment Investigation, Review and Data Collection Barracks Annual Reporting form

##### **Individuals interviewed/ observations made.**

Interviews with PREA Coordinator

Interviews with Colonel of Massachusetts State Police

#### **Indicator Summary Determination**

**Indicator (a)** The agency collects data consistent with the policy definitions developed to be consistent with the standard. Consistent with Policy DET-07A, the Massachusetts State Police collects accurate, uniform data on every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions. The agency aggregates the incident-based sexual abuse data at least annually. The Auditor reviewed the state's past PREA annual reports, which show consistent information from each of the agency's lockup facilities. The Colonel confirmed that data is used to improve the agency's ongoing effort to protect, detect, and respond to sexual abuse and sexual harassment incidents.

**Indicator (b)** The agency completes an annual report with aggregate data of the Newbury Station. The Auditor was able to see the data form used by Station Commanders to report data uniformly across the system. The Auditor also reviewed the agency's annual report, which is published on the state website.

**Indicator (c)** The Auditor confirmed the various elements of the Survey of Sexual Violence are maintained and could be used to complete the report if requested by the Department of Justice. No request by the Department of Justice for a Survey of Sexual Violence report at Newbury Station in the past three years. Interviews with both the facility Station Commander and the state PREA Coordinator confirmed the elements required were tracked.

**Indicator (d)** The agency has rules on the retention of records at all MSP facilities. Copies of criminal files involving detainee on detainee contact will be retained locally with a copy to the agency PREA Coordinator. The PREA Coordinator would receive all incident outcomes and ensure data accuracy.

**Indicator (e)** The Massachusetts State Police has access to data from county jail facilities with whom they have mutual aid agreements. The detainee is only the state police's responsibility until they are presented in court (generally under 72 hours). If the detainee is remanded, they become the county Jail's custodial responsibility.

**Indicator (f)** The Department of Justice has not requested PREA related information from the Newbury Station in the past year.

**Compliance Determination:**

The Auditor has found the standard to be compliant. The Massachusetts State Police has a system in place for collecting uniform data that could be used to complete the Survey of Sexual Violence. The Massachusetts State Police annual PREA report outlines the efforts, including data for the agency's facilities. The agency policy DET-07A Detainee Sexual Abuse and Sexual Harassment Investigation, Review and Data Collection commit the agency to comply with the standard's data collection requirement. The Colonel of the MSP stated his commitment to utilizing data in the agency's ongoing efforts to prevent sexual misconduct. Interviews with the Colonel, and the PREA Coordinator, support a system to collect uniform data. The Auditor took into consideration the interviews, and the various documents that support data are collected and used at a statewide and facility level.

**Standard 115.188: Data review for corrective action**

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

**115.188 (a)**

- Does the agency review data collected and aggregated pursuant to § 115.187 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by: Identifying problem areas?  Yes  No
- Does the agency review data collected and aggregated pursuant to § 115.187 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by: Taking corrective action on an ongoing basis?  Yes  No
- Does the agency review data collected and aggregated pursuant to § 115.187 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by: Preparing an annual report of its findings and corrective actions for each lockup, as well as the agency as a whole?  Yes  No

**115.188 (b)**

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

**115.188 (c)**

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

**115.188 (d)**

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

#### **Policies and written/electronic documentation reviewed.**

DET-07A Detainee Sexual Abuse and Sexual Harassment Investigation, Review and Data Collection  
MSP Annual PREA Reports

#### **Individuals interviewed/ observations made.**

Interview with Colonel of the Massachusetts State Police  
Interview with Station Commander  
Interview with PREA Coordinator

#### **Indicator Summary Determination**

**Indicator (a).** The Massachusetts State Police utilizes both data related to PREA incidents and data related to other critical safety incidents to determine program improvements. The department's central office staff and the facility's administrative teams review critical incidents with an eye toward improving safety. Interview with the Station Commander and the Colonel of the Massachusetts State Police support critical analysis occurs at the facility level and at a system level. The PREA Coordinator also confirmed his position allows him to be a part of the critical review process.

**Indicator (b)** The Massachusetts State Police annual report has a comparison of the number of sexual assault and sexual harassment claims over the past four years. The report shows if the accused was a staff or an inmate and provided the outcome determination.

**Indicator (c)** The Massachusetts State Police Colonel confirms he approves the PREA report developed by the agency PREA Coordinator before being placed on the agency's website. Policy DET-07A states, "The PREA Coordinator's annual report shall include a comparison of the current year's data and corrective actions with those from prior years and provide an assessment of the agency's progress in addressing sexual abuse. Upon the approval of the Colonel, said report shall be made publicly available upon request subject to redaction if appropriate."

**Indicator (d)** The MSP removes all identifiers from summary reports. The Auditor was able to review documented reports on PREA that show cumulative data without utilizing identifiers.

**Compliance Determination:**

The Massachusetts State Police meets the requirements of this standard in policy DET-07A Detainee Sexual Abuse and Sexual Harassment Investigation, Review and Data Collection (page 4) defines the use of data. The Colonel and the Station Commander of Newbury Station supported they utilize data to make informed decisions on programmatic and policy needs. This is consistent with the standard expectation to do a critical review of data to identify problem areas and enact corrective actions. The PREA Coordinator has access to all data to identify trends that can be reviewed and support change at the facility or system level. The agency also showed compliance with PREA standards by publishing its annual reports that combine data and narrative information on MSP’s efforts since 2016 to develop PREA safe facilities. The report tracks trends of incidents without identifying information.

**Standard 115.189: Data storage, publication, and destruction**

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

**115.189 (a)**

- Does the agency ensure that data collected pursuant to § 115.187 are securely retained?  
 Yes  No

**115.189 (b)**

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

**115.189 (c)**

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

**115.189 (d)**

- Does the agency maintain sexual abuse data collected pursuant to § 115.187 for at least 10 years after the date of the initial collection, unless Federal, State, or local law requires otherwise?  Yes  No

**Auditor Overall Compliance Determination**

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

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

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

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

#### **Policies and written/electronic documentation reviewed.**

DET-07A Detainee Sexual Abuse and Sexual Harassment Investigation, Review and Data Collection  
Governor's Executive Order 504  
Mass State Records Retention Schedule  
Mass General law G.L.c 66 section 10  
MA Annual PREA Report

#### **Individuals interviewed/ observations made.**

Interview with PREA Coordinator

#### **Indicator Summary determination.**

**Indicator (a).** The Massachusetts State Police has both internal policy and executive orders from the Governor's Office that speak to information security. The MSP Division of Administrative Services is responsible for the technological security of information. The Governor's office requires that each agency have an Information Security Officer to oversee the agency's compliance with state and federal laws protecting individuals' privacy. The state of Massachusetts also has an organization that sets the record retention requirements for the state agencies. The Auditor reviewed the Governor's Executive Order, State Retention policy requirements, and the agency policy in assessing the element's compliance.

**Indicator (b).** The annual report posted on the Massachusetts State Police website's PREA page does not use an individual's identifying information. The report summarizes the data for all facilities it is responsible for looking at misconduct from other detainees or from staff. A review of the state's website shows an annual summary report on the agency's efforts to prevent sexual abuse or sexual harassment of detainees in the state police's custody. Reports were posted for the past four years.

**Indicator (c).** Publicly available information on sexual assaults that are published on the state's websites excludes personal identifying information. Policy DET-07A sets forth the public availability requirement of the annual report data on page four.

**Indicator (d).** Policy DET-07A sets forth an expectation consistent with the standard. The policy states, "All data collected shall be retained at least ten years after initial collection, unless, state, federal or local law requires otherwise."

#### **Compliance Determination**

The Auditor finds that the standard has been met. Policy exists to protect the privacy of individuals while ensuring appropriate record retention. The agency supports transparency of its actions through

the public distribution of its annual report through the state website at [www.mass.gov/lists/annual-prea-reports-and-audits](http://www.mass.gov/lists/annual-prea-reports-and-audits).

## AUDITING AND CORRECTIVE ACTION

### Standard 115.401: Frequency and scope of audits

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

##### 115.401 (a)

- During the prior three-year audit period, did the agency ensure that each facility operated by the agency, or by a private organization on behalf of the agency, was audited at least once? (*Note: The response here is purely informational. A "no" response does not impact overall compliance with this standard.*)  Yes  No

##### 115.401 (b)

- Is this the first year of the current audit cycle? (*Note: a "no" response does not impact overall compliance with this standard.*)  Yes  No
- If this is the second year of the current audit cycle, did the agency ensure that at least one-third of each facility type operated by the agency, or by a private organization on behalf of the agency, was audited during the first year of the current audit cycle? (N/A if this is **not** the *second* year of the current audit cycle.)  Yes  No  NA
- If this is the third year of the current audit cycle, did the agency ensure that at least two-thirds of each facility type operated by the agency, or by a private organization on behalf of the agency, were audited during the first two years of the current audit cycle? (N/A if this is **not** the *third* year of the current audit cycle.)  Yes  No  NA

##### 115.401 (h)

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

##### 115.401 (i)

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

##### 115.401 (m)

- Was the auditor permitted to conduct private interviews with detainees?  Yes  No

## 115.401 (n)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

#### **Policies and written/electronic documentation reviewed.**

DET-07 Detainee Sexual Abuse and Sexual Harassment

DET-07A Detainee Sexual Abuse and Sexual Harassment Investigation, Review and Data Collection

Massachusetts State Police Website

#### **Individuals interviewed/ observations.**

Interviews with PREA Coordinator

Tour of Newbury Station

#### **Indicator Summary Determination**

**Indicator (a)** The Massachusetts State Police has several of its 33 facilities audited in a year. All 33 PREA Audit Reports are found on the state website by the year they were completed. In 2020-21 the Agency has 11 Audits scheduled. The Auditor also confirmed that the county jails have also been audited in the past three years.

**Indicator (b)** The Audit is occurring in year one of the Audit cycle. The Auditor confirmed from information provided and found on the agency website at least one-third of the facilities will be completed.

**Indicator (h)** The Auditor did have open access to all parts of the facility. Despite COVID-19 social distancing measures, the Auditor was able to move freely about the complex on tour to speak informally with staff to ensure they were aware of the Audit. There was no overnight holds for me to interview, and no individuals were brought into custody while I was on site. The agencies post information to educate detainees on how to seek assistance if the need arises. The Auditor and staff wore masks during the interviews and sat more than 6 feet apart during the Audit process.

**Indicator (i)** The Massachusetts State Police provided the Auditor with an encrypted flash drive in advance with electronic PREA auditing files. The Auditor, the PREA Coordinator, and the legal counsel for the MSP had several phone meetings to review material and set up information the Auditor would like to review on site. The Auditor was also able to get copies of other documentation as requested on site. The Agency provided materials in an organized manner.

**Indicator (m)** The Auditor was able to interview staff in private spaces. The space provided was appropriate to allow the Auditor and the staff to speak freely without others being able to hear our conversations. The Auditor was able to socially distance and use a mask during the audit, but it did not appear to impact the interview process. As previously noted, there was no individual held overnight hours during the time I was on site.

**Indicator (n)** The Auditor did not receive confidential mailings from detainees, staff, or other interested parties. The Auditor's information was posted, and the facility Station Commander and PREA Coordinator were informed the posting should remain up until the final report is issued.

**Compliance Determination:**

The Massachusetts State Police has had PREA audits of each of its 33 facilities in the last three years. The MSP has spread its facility audits over the three-year PREA cycle and has requirements in mutual aid agreements the County Jails used are to be PREA compliant, including undergoing formal audits. The Auditor was given full access to the lockup and booking areas and was not prohibited from returning to areas of the facility if requested. The Auditor was provided ample space and privacy to conduct confidential interviews with staff. Compliance is based on the above-mentioned facts, which support a culture of monitoring PREA daily.

## Standard 115.403: Audit contents and findings

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

#### 115.403 (f)

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

#### Auditor Overall Compliance Determination

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



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

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

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

#### **Policies and written/electronic documentation reviewed.**

Massachusetts State Police Website

#### **Individuals interviewed/ observations made.**

Interview with PREA Coordinator

#### **Indicator Summary Determination**

**Indicator: (f)** The Massachusetts State Police website has all the previous PREA Audits posted. This was determined through a review of the state's MSP Website. The MSP has published all PREA reports dating back over the past three years. Newbury Station's previous PREA Audit report was viewed on the state's website.

#### **Compliance Determination:**

The Massachusetts State Police website has all previous facility PREA Audits posted under its PREA information link. The Auditor also took into consideration that the Agency PREA Coordinator was also aware of the timing requirement for the posting of the audit report.

## 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 detainee or staff member, except where the names of administrative personnel are specifically requested in the report template.

### Auditor Instructions:

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

*Jack Fitzgerald*

5/27/21

**Auditor Signature**

**Date**

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

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