

PREA AUDIT REPORT ☐ Interim ☒ Final
LOCKUPS

Date of report: October 30th, 2017

Auditor Information				
Auditor name: Garret Peter Zeegers, Sr.				
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Email: pete.zeegers@truecorebehavioral.com				
Telephone number: 863-441-2495				
Date of facility visit: June 21, 2017				
Facility Information				
Facility name: Barracks E-4, SP Tunnels				
Facility physical address: 100 Massport Haul Road, South Boston, MA 02210				
Facility mailing address: <i>(if different from above)</i>				
Facility telephone number: 617-946-3000				
The facility is:	<input type="checkbox"/> Federal	<input checked="" type="checkbox"/> State	<input type="checkbox"/> County	
	<input type="checkbox"/> Military	<input type="checkbox"/> Municipal	<input type="checkbox"/> Private for profit	
	<input type="checkbox"/> Private not for profit			
Facility type:	<input checked="" type="checkbox"/> Police	<input type="checkbox"/> Sheriff	<input type="checkbox"/> Court Holding	<input type="checkbox"/> Other
Name of facility's Chief Executive Officer: Lt. Charles Nolan				
Number of staff assigned to the facility in the last 12 months: 6				
Designed facility capacity: 2 cells and a cuffing rail/bench				
Current population of facility: 0				
Age range of the population: 18-70				
Name of PREA Compliance Manager: Captain Philip Dowd			Title: Detective Captain	
Email address: philip.dowd@MassMail.State.MA.US			Telephone number: 508-820-2300	
Agency Information				
Name of agency: Massachusetts State Police				
Governing authority or parent agency: Massachusetts Executive Office of Public Safety and Security				
Physical address: 450 Worcester Road, Framingham, MA 01702				
Mailing address: <i>(if different from above)</i> Click here to enter text.				
Telephone number: (508) 820-2300				
Agency Chief Executive Officer				
Name: Col. Richard McKeon			Title: Superintendent	
Email address: richard.mckeon@MassMail.State.MA.US			Telephone number: (508) 820-2300	
Agency-Wide PREA Coordinator				
Name: Det. Capt. Philip Dowd			Title: PREA Coordinator	
Email address: philip.dowd@MassMail.MA.US			Telephone number: (508) 820-2300	

AUDIT FINDINGS

NARRATIVE

The Massachusetts State Police (MSP) is an agency of the Commonwealth of Massachusetts' Executive Office of Public Safety and Security responsible for criminal law enforcement and traffic vehicle regulation across the state. At present, it has approximately 2,300 officers, 1500 of them being uniformed troopers, and 400 civilian support staff—making it the largest law enforcement agency in New England. The MSP is headed by Colonel Richard McKeon.

The on-site Prison Rape Elimination Act (PREA) audit of the Barracks E-4, SP Tunnels Lockup in South Boston, MA was initiated on June 21st, 2017 by Garret Peter Zeegers, Sr, a U.S. Department of Justice Certified PREA Auditor for Adult and Juvenile facilities. Previously, the Auditor sent the agency/facility the PREA Audit Notices (in English and Spanish) to be posted in the facility in areas where detainees, staff, contractors, volunteers, interns, and visitors may be found. Photographic documentation of the posted Notices in the facility was received and observed during the on-site visit in June. Additionally, the Auditor provided the PREA Coordinator with the Checklist of Documentation and the Pre-Audit Questionnaire, as well as instructions as to how to format the flash drive for the uploading of documents.

The flash drive containing the required documentation and the Pre-Audit Questionnaire was received by May 18th, 2017. The Auditor conducted a thorough review of the documentation and data, which included agency policies, procedures, forms, education materials, training curriculum, organizational charts, posters, brochures and other PREA related materials that were provided to demonstrate compliance with the PREA standards. Questions and issues, relating to compliance with the Standards, raised during this review were documented on the applicable Compliance Tool. A list of these questions and issues was sent to the PREA Coordinator, and a date for a telephone conference call to discuss these items was set. The Auditor also requested the PREA Coordinator to provide a written list of facility administrative personnel, specialized staff, medical and mental health staff, and security staff. It was subsequently learned that the facility was manned only by uniformed officers and did not have any specialized staff, medical or mental health staff. Additionally, the facility does not utilize contracted staff nor volunteers.

The Auditor arrived at the facility on June 21, 2017 at 5:30 a.m. and met with the Desk officer on duty on the Midnight Shift, which also included **GL** officers on patrol. This early arrival allowed the Auditor to conduct interviews with **GL c** officers prior **GL c 4, sec. 7 cl. 26(n) Security**. The Station Commander arrived shortly thereafter. An overview of the audit process was provided and was followed by a tour of the smaller facility. There is a small booking area which contains a cuffing rail/bench and ten cells. Cameras cover the booking area and cells, **GL c 4, sec. 7 cl. 26(n) Security**. The PREA audit notice (posted immediately in front of the cuffing rail/bench) and PREA information poster (on wall behind desk) were observed, as well as a list of written PREA-related questions, taped to the booking desk, that the officer conducting the booking is required to ask each detainee. The remainder of the facility contains several office spaces, a staff weight room, a kitchen area, and storage areas. The average booking and hold is four (4) hours. It is rare that a detainee is ever placed in a cell.

The PREA information/zero tolerance multi-colored poster states in large block letters that, SEXUAL ASSAULT IS AN ACT OF VIOLENCE. It informs detainees that they can report sexual assault or harassment by telling any State Police staff member, by submitting a written complaint, or by having a friend or relative report the incident for the detainee. 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 at (617) 963-2800, and that the AGO is a third party entity not affiliated with the State Police. This auditor called the AGO and confirmed the system of reporting.

The agency website contains a dedicated PREA webpage that contains the agency's PREA zero tolerance policy, how to report sexual abuse or harassment, including third party reporting and links to a list of sexual assault and rape crisis centers, a list of Sexual Assault Nurse Examiners, and several to the PREA Resource Center.

This facility operates on three shifts. The Auditor interviewed all **GL c 4** officers during the day. The Auditor also interviewed the Station Commander. Certified PREA Auditor Peter Plant interviewed the PREA Coordinator (also designated to serve as the agency director representative), agency Human Resources Director, and an agency investigator, at a later time. There were no detainees brought to the facility.

The Auditor reviewed a total of 11 personnel files to determine compliance with training mandates and background check procedures.

As of the date of this report, the Auditor has not received any mail, regarding this facility, at the designated audit post office

box in Deerfield Beach, FL.

DESCRIPTION OF FACILITY CHARACTERISTICS

Station E-4, SP Tunnels



**100 Mass port Haul Road
South Boston, Ma. 02210
Telephone: 617-946-3000
Fax: 617-946-3009**

State Police Tunnels opened in December 1995, is located above the South Boston portal of the Ted Williams Tunnel (TWT). The TWT was originally designated as the Third Harbor Tunnel and was the first portion of the Central Artery/Tunnel Project (the 'Big Dig') to be completed, inaugurated on December 15, 1995. The Tunnels barracks covers 45 miles of highways, including all Big Dig roadways and the intricate system of highways, tunnels, ramps and connectors.

The Big Dig is the largest public works project in the nation's history and was constructed while maintaining service to the old elevated highways. Major roadways include: I-93 North from Exit 18 in South Bay to Exit 28 in Charlestown; I-93 South from Exit 26 in Somerville to the South Bay Mall in Dorchester; I-90 (Mass Pike) East and West between Interchange 19/20 in Allston Brighton and Route 1A in East Boston; the Leverett Connector North and South, between Somerville and Leverett Circle. Other tunnels covered by E-4 personnel are the Sumner and Callahan Tunnels under Boston Harbor, the CANA Tunnels under City Square in Charlestown, the Prudential and O'Neil Tunnels running east and west, and the most recent Liberty Tunnel running north and south along Route 93.

There is a small booking area which contains a cuffing rail/bench and two cells. Cameras cover the booking area and cells, G.L. c. 4, sec. 7 cl.

26(a) Security The cells are small and contain a bench and toilet; however, G.L. c. 4, sec. 7 cl.

26(a) Security The primary purpose of the cameras is to monitor for self-harming behavior of any detainee placed in a cell.

The facility does not have showering facilities for detainees. In the rare instance where a detainee is held for a long period of time or overnight, the detainee is provided a basin of water to bathe/refresh, if needed.

The remainder of the facility contains several office spaces, a kitchen area, a staff weight room, and storage areas and is well maintained. The average booking and hold is four (4) hours. It is rare that a detainee is ever placed in a cell.

SUMMARY OF AUDIT FINDINGS

An Interim Report was completed and sent to the agency's PREA Coordinator on August 3rd, 2017. There were seven standards that were not in compliance and two standards were not applicable. All corrective actions were completed by October 3, 2017. Thus, the following findings are final.

Number of standards exceeded: 1

Number of standards met: 30

Number of standards not met: 0

Number of standards not applicable: 2

Standard 115.111 Zero tolerance of sexual abuse and sexual harassment; PREA Coordinator

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

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

General Order PRI-07, *Detainee Sexual Abuse and Sexual Harassment*, details and mandates the agency's zero tolerance toward all forms of sexual abuse and sexual harassment. The definitions used, including prohibited behaviors, are consistent with the definitions of the PREA law. This written policy and Division Commander's Order 17-DFS-034, *Prison Rape Elimination Act-PREA*, detail the agency's approach to preventing, detecting, and responding to sexual abuse and sexual harassment. The policy clearly states that any employee determined to have engaged in sexual abuse or sexual harassment of detainees shall be subject to discipline. The presumptive sanction for having engaged in prohibited behavior under this policy is termination.

Further, General Order ADM-18, *Anti-Harassment/Sexual Harassment and Discrimination*, states that any employee found to have engaged in harassment, sexual harassment, or discrimination is subject to disciplinary action up to and including termination.

The agency has designated Det. Capt. Philip Dowd from its Headquarters Office as the PREA Coordinator. He reports that he has been given sufficient time and authority to develop, implement, and oversee the agency's efforts to comply with the PREA standards in all of its facilities. This commitment was evident in the Tunnels Barracks. The Commanding Officer and all of the officers interviewed knew Capt. Dowd and were very informed about the agency's PREA-related policies and requirements. The interview with Capt. Dowd evidenced his detailed knowledge of the PREA standards and his commitment to ensuring that the agency's zero tolerance policy is thoroughly implemented.

Standard 115.112 Contracting with other entities for the confinement of detainees

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

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

This Standard is N/A. The agency does not contract with other entities for the confinement of detainees.

Standard 115.113 Supervision and monitoring

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

- ☐ Does Not Meet Standard (requires corrective action)

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

General Order PRI-07 directs Station Commanders for each facility to develop and document the staffing plan for their facility. The agreement between the agency and the officers' unions states that there must be a minimum of **G.L. c. 4, sec. 7 cl. 26(n)** and at least **G.L.** uniformed officers per shift. Neither the agency, nor the Station Commander, is allowed to deviate from this minimum staffing of the Station. This is the base mandatory staffing level at each facility, including Tunnels. General Order PRI-06, *Prisoner Monitoring*, requires the Desk Officer on each shift to conduct the monitoring of the booking area and cells (in the rare instance where a detainee is placed in a cell), which are the only areas where detainees may be held. General Order PRI-07 also states that if after screening, an officer determines that the detainee may be at risk, the detainee shall be housed alone in a holding cell for the duration of his/her detainment at a State Police facility. This includes post-screening transportation in a Department vehicle to/from court, jail, prison, or other agency.

G.L. c. 4, sec. 7 cl. 26(n) officers are assigned to the Tunnels Barracks, which currently operates a shift pattern of **G.L. c. 4, sec. 7 cl. 26(n)** officers on the Mid-shift; a **G.L. c. 4, sec. 7 cl. 26(n) Security** on the day shift; and, **G.L. c. 4, sec. 7 cl. 26(n) Security** on the Evening shift.

Offenders are rarely placed in a cell. The average hold is approximately four hours. The Station Commander stated that juveniles are never held at this facility. There were no allegations of sexual abuse or sexual harassment during the past year. The agency's most recent annual assessment, then, was that the current staffing pattern, as required by the union contracts, is sufficient to ensure detainees are properly monitored and supervised.

Standard 115.114 Juveniles and youthful detainees

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

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

General Order INV-05, *Juvenile Operations*, states that juveniles charged with a delinquent or criminal offense may only be held in a detention area which has been approved in writing by the Department of Youth Services. If a juvenile is held in an approved detention area, the juvenile must be separated by sight and sound from adult prisoners. The Station Commander stated that juveniles are never detained at this facility. All of the officers interviewed stated that either juveniles could not be held in the facility or could not be mixed with adults. Several stated that they had been instructed to contact Juvenile Probation, whenever they had a juvenile in custody.

Standard 115.115 Limits to cross-gender viewing and searches

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

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

General Order PRI-02, *Custodial Inventory* states that strip searches shall only be conducted with the approval of a supervisor (unless exigent circumstances exist); whenever practicable by two (2) officers of the same gender as the subject; in an area that affords complete privacy (strip searches shall not be conducted outside of a Department facility, unless exigent circumstances exist); out of the public view (including video cameras, windows, et cetera); without any touching of the detainee (although the detainee may be asked to bend at the waist and spread their buttocks); in a reasonable, non-abusive, and professional manner; and, only for the duration necessary to complete the search. Further, the policy prohibits physical intrusions into body cavities, and that if a body cavity search is required, that it is to be conducted by a medical practitioner in appropriate medical surroundings, after obtaining a warrant, issued by a judge, which is based on a high degree of probable cause.

There were no cross-gender strip or cross-gender visual cavity searches of detainees in the previous 12 months.

General Order PRI-06 states that detainees will be allowed to perform bodily functions without officers of the opposite gender viewing their breasts, buttocks or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks. Further, it states that officers 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 detainee shower facilities at this Station. Detainees are rarely placed in a cell. The Auditor viewed the monitor that is supervised by the Desk Officer and confirmed that the bars and camera angle ensure that the toilet area is not seen on the monitor. Most of the officers interviewed were aware of the opposite gender announcement requirement.

General Order PRI-02 states that staff shall not physically search a subject for the sole purpose of determining the subject's gender, and that any search of transgender or intersex detainees be conducted in a respectful and appropriate manner and in the least intrusive manner possible, consistent with security needs. All staff interviewed knew of this prohibition. [GL] staff stated that they had received training at either the Academy or online as to the proper method of conducting searches of transgender and intersex detainees; however, [GL] could not describe an appropriate method of conducting the search. Most male officers stated that they would not conduct cross-gender searches, that they would request a female officer to come to the facility to conduct the search.

During the Post-Audit stage the agency published a new policy, General Order PRI-08, Gender Identity and Expression, that includes a section on searches:

When Department members encounter transgender individuals, members shall:

- Not perform a search or frisk for the sole purpose of determining an individual's gender;
- Ask the individual what their preference is regarding the sex of the officer(s) searching the individual;
- Whenever practicable have two (2) officers of the preferred sex perform the search; and
- Document within the incident report the circumstances for the search, including the individual's preference regarding the sex of the officer(s) performing the search.

When an immediate cursory search for weapons is necessary for safety, it may be conducted in the field by an officer of either sex.

Required Corrective Action: The agency must conduct refresher training, either on-site or on-line, on the proper methods for conducting cross-gender pat down searches and searches of transgender and intersex detainees, as well as on PRI-08. Documentation of this training must be provided.

Corrective Action Completed: The agency published a new Training Bulletin 2017-13, entitled "Searches of Transgender and Intersex Detainees." The Bulletin was distributed to all stations and officers as part of the Department's Daily trainer program. Each officer receives the Bulletin on his or her lap top when he or she opens/turns the lap top on prior to the shift.

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

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

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

General Order PRI-07 defines detainees with disabilities to include detainees who are deaf, hard of hearing, blind or have low vision, and those who have intellectual, psychiatric, or speech disabilities. It states that officers 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.

General Order PRI-07 further states that officers 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 has established through Century Link Language a dedicated phone number for language translations for the entire agency, including all Stations. This policy prohibits officers using 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-response duties, or the investigation of the detainee's sexual abuse/harassment allegations.

Most of the officers interviewed knew about the Century Link Language service and how to access it. Several stated that they would read the PREA-related notices to detainees who were blind or had low vision. **GL** officers stated that they would contact a local agency for assistance with a detainee with intellectual or mental disabilities and **GL** officer stated he would contact the detainee's caregiver for assistance, but most were not aware of any resources available for this category of detainees.

Required Correction Action: The agency needs to identify resources to assist officers with communicating PREA-related information and notices to detainees who are deaf or hard of hearing, those who are blind or who have low vision, and those who have intellectual, psychiatric, or speech disabilities. The resources should be described in writing and made available to officers assigned to this Station.

Corrective Action Completed: The Department disseminated a directory listing the contact information for the Massachusetts Commission for the Deaf & Hard of Hearing and the Disabled Persons Protection Commission to assist with communicating with disabled detainees.

Standard 115.117 Hiring and promotion decisions

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

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

The agency Massachusetts State Police Certification Unit, a Unit under the Division of Standards and Training, requires each applicant to complete a Background Investigation Questionnaire, which on page 6 contains the three questions required by Standard §115.117(a). A redacted sample of the complete form was provided for review. The primary function of this Unit is conducting background investigations and is comprised of a full-time staff § 8.1. c. 4, sec. 7 cl. 26(n) sergeants, § 8.1. troopers and § 8.1. civilians. These investigations are conducted on applicants seeking employment in various law enforcement positions including the Department of State Police Recruit Training Candidates, Department of State Police civilian employees, Chiefs of Police, NESPIN, Military, Private Detectives, Watch Guard Patrol Agency, Special State Police, Department of State Police Interns and temporary employees. The Unit also conducts background investigations upon request for out-of-state police agencies from across the nation. During the background investigations, officers verify the information provided by an applicant by researching computer records, conducting neighborhood interviews, performing reference checks and credit checks and verifying past employment. The candidate is also interviewed to provide information and to address any issues regarding their application. Upon completion of the investigation the Unit drafts a report of its findings, which is reviewed by a panel of high ranking officers, and who makes the final decision whether to hire. This process takes about six weeks or more. The HR Director stated that the agency does not hire contractors, but utilizes other state agency employees, as needed.

The agency has a designated Harassment Officer (with the rank of Lt. or higher) in its Standards and Training Division who has the authority to conduct investigations of allegations of harassment. Substantiated allegations are forwarded to the Division Commander for disposition. There was a discrepancy as to whether substantiated incidents of sexual harassment are considered during the promotion consideration process. In an interview with the HR representative the Auditor was informed that these incidents would not be considered, based on both State law and collective bargaining agreements; however, the PREA Coordinator stated that the Colonel has authority to divert from the law and agreements and take those incidents into consideration whether to promote an officer. The PREA Coordinator also stated that in order for an officer to be considered for promotion, he or she must be a member in good standing. Any substantiated incident of sexual harassment would be disqualifying in that regard, and the member would most likely be fired. This issue was resolved when the agency's Deputy Chief Legal Counsel provided the Auditor with a copy of the decision in *Gale v. Alben*, Superior Court Civil Action No. 2015-00162-G affirming that the Colonel can properly decline to make promotions that would be anomalous or not conducive to morale.

It is not clear that a background screening is completed every five years. Again, the HR representative stated that it is not, and the PREA Coordinator stated they had begun doing five year rescreening, as the result of a previous PREA audit.

General Order PRI-07 requires all employees to disclose any of the misconduct, relating to sexual assault and sexual harassment. Material omissions regarding such misconduct, or the provision of materially false information, are grounds for termination. All of the officers interviewed were aware of this requirement and the potential consequences for failure to comply.

The HR Director confirmed that the agency provides information on substantiated allegations of sexual abuse or sexual harassment involving a former employee upon receiving a request from an institutional employer for who such employee has applied to work.

Required Corrective Action: The PREA Coordinator must provide documentation that the five-year background screening is being conducted.

Corrective Action Completed: The agency completed the background checks for all members of the Department. The Department's PREA Coordinator, Det. Capt. Steve Gawron, advises that the checks are completed and that no current member has been convicted of any designated crime appearing in 115.117(a)(1)-(3). The Department reached out to the Massachusetts Department of Criminal Justice Information Systems ("DCJIS"), a separate state agency which maintains the state's criminal records database, for its assistance in reviewing the criminal background records, or board of probation records ("BOPs"), of current members to the extent any had one. The search was performed as follows: DJIS ran both the names and DOB's the MSP provided it. The search yielded two lists: one consisted of officers whose names matched another

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individual with the same name, but who had a different DOB. These were not matches. The second list consisted of officers whose name and DOB matched. The Department reviewed the BOPs of the latter officers whose name and DOB both matched. That review is now complete. The Department found that no officer has been convicted of any of the PREA designated crime(s).

Standard 115.118 Upgrades to facilities and technologies

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

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

This Standard is N/A. The facility has not been expanded, nor has it installed new monitoring technology since August 20, 2012.

Standard 115.121 Evidence protocol and forensic medical examinations

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

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

General Order INV-01, *Criminal Investigations* states that investigations shall be conducted on all matters of a criminal nature that fall within the jurisdiction of the Department.

General Order PRI-07A, *Detainee Sexual Abuse and Sexual Harassment Investigations* states that as the investigative agency for alleged sexual crimes committed on adults and juveniles held in a confinement setting by either the Department of Correction or Department of Youth Services, the Department of State Police shall ensure full compliance with the standards found within federal laws and mandates regarding the *Prison Rape Elimination Act* (2003).

General Order PRI-07A further states that the Department shall adhere to the following requirements in regards to detainee allegations of sexual abuse and/or sexual harassment:

- Investigate allegations of sexual abuse and/or sexual harassment from the Department of Correction or Department of Youth Services;
- Investigate allegations of sexual abuse and sexual harassment from within the Department of State Police;
- Investigate allegations of sexual abuse and sexual harassment alleged by a detainee while detained at another facility;
- Follow uniform evidence protocol that maximizes the potential for obtaining usable physical evidence;
- Development of an internal protocol appropriate for juveniles where applicable;
- Offer all victims access without financial cost to forensic medical examinations performed by a Sexual Assault Forensic Examiner or qualified medical practitioner;

- Attempt to make a victim advocate from a rape crisis center available to the detainee;
- Accompany the victim through the forensic medical examination process and interviews; and
- Take appropriate measures to prevent retaliation against individuals who report and/or cooperate with an investigation.

The evidence protocol provided does not meet the requirements of 115.121(b). It is very general and does not specifically address sexual abuse.

There were no instances of a forensic medical exam at this Barracks during the previous twelve months. No detainees were transported to an outside hospital for a forensic examination during the previous twelve months.

Required Corrective Action: The agency must develop an evidence protocol that meets the requirements of 115.121(b).

Corrective Action Completed: The agency does have an evidence protocol that meets the requirements of the Standard. It is detailed in the Massachusetts State police Forensic Services Group: Evidence Handling and Submission Manual, Version 10.1. Additionally, the agency's Evidence Control Unit of the Crime laboratory utilizes a Sexual Assault Kit and a Toxicology Kit that meets the requirements of this Standard.

Standard 115.122 Policies to ensure referrals of allegations for investigations

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

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

General Order PRI-07A states that the agency shall investigate allegations of sexual abuse and/or sexual harassment from the Department of Correction, the Department of Youth Services, or the Department of State Police, as well as investigate allegations of sexual abuse and sexual harassment alleged by a detainee while detained at another facility. This duty is reinforced in General Order PRI-07 which states that the Department shall ensure that an administrative or criminal investigation is completed for all allegations of detainee sexual abuse and/or sexual harassment pursuant to PRI-07A *Detainee Sexual Abuse and Sexual Harassment Investigations, Review and Data Collection*.

There were no allegations of sexual abuse or sexual harassment during the previous twelve months.

Standard 115.131 Employee and volunteer training

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

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

General Order PRI-07 states that all employees who may have contact with lockup detainees shall receive training regarding: PREA Audit Report

- 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 policy further states that the Department shall provide each employee with refresher training annually to ensure that all employees know the agency's current sexual abuse and sexual harassment policies and procedures. In years in which an employee does not receive refresher training, the Department shall provide refresher information on current sexual abuse and sexual harassment policies. Further, Every member or employee who may have contact with detainees shall acknowledge either in 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.

The agency has made a major commitment to training its employees, regarding PREA. The course, PREA Training for Lockups (2017), is a comprehensive training that is given at both the Academy and on-line and contains all the topics required by the policy and this Standard. It is a mandated training for all Department staff. All of the officers interviewed stated they had completed the course at either the Academy or on-line. This was confirmed by review of the officers' training files.

The agency has also published and distributed to all Stations two training bulletins that state the agency's zero tolerance policy, the dynamics of sexual abuse, officers' duties to prevent and detect sexual abuse, the duty to report sexual abuse and sexual harassment, protection from retaliation, first responders duties, and related topics. These bulletins are maintained on-line and at the Station and readily available to the assigned officers.

A number of agency staff attended the Massachusetts DOC PREA Conference held in February 2017.

This Station does not utilize volunteers.

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

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

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

The agency has created a Detainee PREA Information brochure that is given to each detainee. The brochure contains the agency's zero tolerance policy, detainee rights, how to report allegations, the right to report allegations to an outside agency (including contact information for the Office of the Attorney General), the right to make an anonymous report, and a list of supportive services, including sexual assault and rape crisis centers. Division Commander's Order 17-DFS-034 directs all agency facilities that house detainees to conspicuously post the PREA Rights Notification signage, which explains detainee rights and reporting mechanism under PREA, so that it is visible to all detainees. At this Station the sign is posted on the wall facing the detainee and due to its dark color is distinguishable from other posted notices. The poster replicates some of the information contained in the PREA brochure.

All of the officers interviewed who conduct bookings stated they hand the brochure to the detainee, direct their attention to the PREA Audit Report

posted notice, and ask PREA-related questions from a script taped to the booking desk, or they utilize a drop down box on the computer. The facility reported that all detainees during the previous twelve months received the brochure.

General Order PRI-07 states that the Department shall ensure that all contractors who enter Department facilities and who may have contact with detainees have been trained on their responsibilities under the Department's sexual abuse and sexual harassment prevention, detection, and response policies and procedures including the Department's zero-tolerance policy regarding prohibited behavior. At this Station given the location of the booking area and adjacent cells and both direct and monitored supervision make it unlikely that a contractor would have contact with a detainee. Further, no contractors or inmates currently work at this Station.

Standard 115.134 Specialized training: Investigations

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

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

General Order PRI-07A states that 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.

The agency has developed in conjunction with the Massachusetts Department of Corrections a comprehensive specialized training course on how to conduct sexual abuse investigations. This specialized training includes all of the topics required by the Standard; however, a copy of this specialized training and documentation that all investigators have received the training has not yet been provided.

Required Corrective Action: The PREA Coordinator needs to provide a copy of this specialized training and documentation that all investigators have received the training.

Corrective Action Completed: The PREA Coordinator provided a copy of the specialized training developed in collaboration with the Massachusetts Department of Correction and a list of the investigators who have completed this detailed training.

Standard 115.141 Screening for risk of victimization and abusiveness

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

Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These

recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

General Order PRI-07 states that in accordance with training, when booking detainees, members shall screen all detainees to assess their risk of being sexually abused by other detainees or sexually abusive toward other detainees. The screening shall be documented in RAMS/Department Records Management System. If after screening, the member determines that the detainee may be at risk, the detainee shall be housed alone in a holding cell for the duration of his/her detainment at a State Police facility. This includes post-screening transportation in a Department vehicle to/from court, jail, prison, or other agency.

General Order PRI-06 states that continuous supervision is essential for maintaining and assuring the safety and welfare of prisoners while in custody. Division Commander's Order 17-DFS-034 requires all officers to take immediate action to protect a detainee from imminent sexual abuse.

The Training Bulletin 2016-09 directs that the screening shall consist of:

- (1) Asking the detainee about his or her own perception of vulnerability, e.g., "If you are placed in a cell, do you have any concerns about your safety or about being abused in any way?", and
- (2) Assessing the detainee's risk of being sexual abused or sexually abusive by considering the following factors:
 - Whether the 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; and
 - The nature of the detainee's alleged offense and 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.

This direction is taped to the booking desk. All of the officers interviewed stated that they follow this screening procedure, even when the detainee is the only detainee in the booking area and there is no plan to place the detainee in a cell. Also stated was the policy to never "double bunk" detainees.

Standard 115.151 Detainee reporting

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

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

The Detainee PREA Information brochure that is given to every detainee during the booking process contains the following methods for reporting allegations of sexual abuse or sexual harassment:

You, or someone on your behalf, whether a friend or relative, can complete a SP 340 Citizens Response Form. Submission of a complaint can be done anonymously. You can obtain a SP 340 in the following manner:

- By contacting a State Police facility for instructions;
- By appearing in person at a State Police facility and obtain a copy of a SP 340 form;
- By downloading the SP 340 form from the State Police external website www.mass.gov/msp ; or
- By calling the Citizen Response Intake Line (508) 988-7003 and following the prompts.

After completing the SP 340 Citizens Response form, you can submit it in the following manner:

- By delivering the SP340 form in person to the Massachusetts State Police General Headquarters located at 470 Worcester Road Framingham, MA 01702 / Citizen Response Reports; or

- By faxing the SP340 to: The Division of Standards and Training/ Citizen Response Reports 508-820-2149; or
- By emailing the SP340 form to the Division of Standards and Training/ Citizen Response Reports at Citizensresponsereports@pol.state.ma.us ; or
- By mailing the SP340 form to: The Massachusetts State Police Division of Standards and Training/ Citizen Response Reports 470 Worcester Road Framingham, MA 01702

PRI-07 states Detainees are informed of at least one way to report sexual abuse and/or sexual harassment to a public or private entity or office that is not part of the Department, allowing the detainee to remain anonymous if so requested. The Detainee PREA Information brochure provides the following contact information:

Reporting to an Outside Agency

Complaints of sexual abuse and/or harassment while in custody can be submitted by you or someone on your behalf to an outside agency, public or private, that has no affiliation with the Department of State Police such as a friend, relative, clergy, attorney or another state agency. You can remain anonymous. Complaints of alleged sexual abuse and/or harassment while in custody can be submitted by you or someone on your behalf to the Office of the Attorney General, One Ashburton Place, Boston, MA 02108 or by calling (617) 963-2800. You can remain anonymous. The Attorney General's Office is not affiliated with the State Police and will report the alleged incident to the proper State Police authorities on your behalf to investigate. You can request that the third party report the incident to proper State Police authorities on your behalf. The third party can contact the Department of State Police in following manner:

- By contacting a State Police facility for instructions;
- By appearing in person at a State Police facility and obtain a copy of a SP 340 form;
- By downloading the SP 340 form from the State Police external website www.mass.gov/msp ; or
- By calling the Citizen Response Intake Line (508) 988-7003 and following the prompts.

The agency website has a dedicated PREA page, which contains the following:

Reporting Sexual Abuse or Harassment

Detainees experiencing sexual abuse or harassment may report the behavior to any Massachusetts State Police employee, or to a third party, such as friend or family member, attorney or advocate, who may make the report for them. If you were assaulted as a detainee while in State Police custody, or you know someone who was assaulted while in State Police custody, you can report the incident by calling the Massachusetts State Police Citizen Response Intake Line at (508) 988-7003 and following the prompts, by contacting a State Police facility for instructions; by appearing in person at a State Police facility and completing an SP 340 citizen complaint form, or by downloading the SP 340 form from the State Police external website www.mass.gov/msp. When reporting an alleged incident, please identify, as best you can, a description of the incident, the location of the incident, the date, time, identity or ID number of the individual(s) whom you believe assaulted or harassed you, the identity of any witnesses, your name, if you choose, and a telephone number or address where you can be reached. For additional information on how to submit a complaint, please visit the State Police's PREA link at www.mass.gov/msp.

General Order PRI-07 states that alleged detainee sexual abuse and/or sexual harassment incidents, including third-party and anonymous reports, are reported to designated investigators. Training Bulletin 2016-09 states that staff must accept and promptly document reports that are made verbally, in writing, anonymously, or from third parties.

General Order PRI-07 also states that Department employees may privately report sexual abuse and/or sexual harassment by contacting the PREA Coordinator, filing a complaint with the Internal Affairs Section, or utilizing the PREA third party contact number posted on the Department's website and on the PREA informational brochure.

All of the officers interviewed were able to describe the various methods that detainees could use to make reports. Most made reference to the Detainee PREA Information brochure and/or the PREA Information poster that is posted in the booking area. **G.L.c.** of the officers stated that could make a private report to the AG's office.

Standard 115.154 Third-party reporting

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

- ☐ Does Not Meet Standard (requires corrective action)

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

The Training Bulletin 2016-09 states that a detainee, or someone on his or her behalf, can also report an alleged incident of sexual abuse or harassment to the Massachusetts Attorney General's Office at (617) 963-2800, a third party entity not affiliated with the State Police. This information is stated in both the Detainee PREA Information brochure and on the PREA information poster posted in the booking area of the facility. Finally, the agency PREA web page contains the following:

Third Party Reporting

Alternatively, reports may be made directly to the Massachusetts Attorney General's at 617-963-2800. You can remain anonymous. The Attorney General's Office is not affiliated with the State Police and will report the alleged incident to the proper State Police authorities on your behalf to investigate.

The Auditor called the number and listed to the following recorded announcement:

You have reached the Attorney General's Office PREA reporting number where you can verbally report an incident of sexual abuse alleged to occur while in State Police custody. This office, which is not affiliated with the State Police, will report the incident directly to the appropriate State Police authorities who will investigate your claim. You may report this information anonymously. If you believe you were the victim of sexual abuse or sexual harassment while in State Police custody, please identify, as best you can, the location of the incident, the date, time, identity or ID number of the individual(s) whom you believe assaulted or harassed you, your name, if you choose, and a telephone number or address where you can be reached. Thank you.

The announcement is provided in English and Spanish.

Standard 115.161 Staff and agency reporting duties

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

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

General Order PRI-07 states that all employees shall immediately report to their immediate supervisor:

- Any knowledge, suspicion, or information regarding an incident of detainee sexual abuse and/or sexual harassment that occurred within a Department lockup;
- Any retaliation against detainees or Department employees who reported such an incident;
- Employee neglect or violation of responsibilities that may have contributed to an incident or retaliation.

All allegations of sexual abuse, including third party and anonymous reports, shall be reported to a designated sexual abuse investigator who shall investigate the allegation pursuant to PRI-07A *Detainee Sexual Abuse and Sexual Harassment Investigations, Review and Data Collection*.

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.

All verbal reports sexual abuse and/or sexual harassment shall be documented by the immediate supervisor who receives a report of sexual abuse or sexual harassment pursuant to this policy.

Department employees may privately report sexual abuse and/or sexual harassment by contacting the PREA Coordinator, filing a complaint with the Internal Affairs Section, or utilizing the PREA third party contact number posted on the Department's website and on the PREA informational brochure.

Methods of reporting shall include: in person, phone, mail, email, fax or any means by which the staff person feels comfortable in reporting to supervisory level staff and/or the PREA Coordinator. Employees are expected to report any knowledge or suspicion of abuse. The methods of reporting are expected to vary based on the situation and the individual involved. Should there be any question as to the most appropriate method, the PREA Coordinator or Supervisor should be contacted.

The Training Bulletin 2016-09 states that "PREA has mandatory reporting requirements. You must report immediately if you know, suspect, or have information about an incident of sexual abuse at any Massachusetts State Police facility or which occurred at another confinement facility. PREA imposes an independent duty to report separate from Massachusetts mandatory reporting laws. -You must report any neglect or violation of responsibilities that may have contributed to such incidents."

This Station does not hold persons under the age of 18.

All the officers interviewed stated that they are required to report any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment of sexual, retaliation, or neglect of duties. None of the officers interviewed stated that they had made a report during the previous twelve months. The Station Commander also reported that there were no reports made during that period.

Standard 115.162 Agency protection duties

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

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

General Order PRI-07 states that if after risk screening, the officer determines that the detainee may be at risk, the detainee shall be housed alone in a holding cell for the duration of his/her detainment at a State Police facility. This includes post-screening transportation in a Department vehicle to/from court, jail, prison, or other agency.

The Division Commander's Order 17-DFS-034 and the PREA Training Bulletin direct all staff to take immediate action to protect a detainee from imminent sexual abuse.

All of the officers interviewed were aware of their duty to immediately protect detainees not only from imminent sexual abuse, but from any harm. None of the officers reported having to so during the previous twelve months. The facility reported that no detainee was determined to be at a substantial risk of imminent sexual abuse during the previous twelve months.

Standard 115.163 Reporting to other confinement facilities

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

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

General Order PRI-07 states that an agency 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. The Colonel/Superintendent shall, in turn, notify the head of the facility or appropriate office of the agency where the alleged abuse occurred, as soon as possible, but no later than seventy-two (72) hours after receiving the allegation. This notification shall be documented.

General Order PRI-07A states that the agency shall investigate allegations of sexual abuse and sexual harassment alleged by a detainee while detained at another facility.

The agency reported that there were no allegations received during the past twelve months that a detainee was abused while confined at a non-Department facility.

Standard 115.164 Staff first responder duties

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

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

General Order PRI-07 states that if the first responder to a report of a sexual assault is an officer, he or she 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 actions 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 evidentiary 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.

This policy further states that if the first responder is not an officer, that responder shall request that the alleged victim not take any actions that could destroy physical evidence; and immediately notify an officer.

The Training Bulletin 2016-09 directs first responders to separate victim and abuser; protect crime scene; and protect physical evidence to be collected.

The responses from the officers who were interviewed were mixed. All stated that they would separate the victim and abuser, and that they would protect the victim from any harm. **GL.c.** staff stated that since the booking area is monitored by the Desk Officer, they would expect the Desk Officer to report the incident to the Station Commander, since they could not leave the booking area where they were holding and protecting the victim. When asked if they would ask the victim to do or not do anything, all replied with some form of protecting any evidence. **GL.c.4.** stated that they would consult the General Order Manual to assist their recollection of what they are required to do after separating the two individuals. In fairness the use of the cuffing rail/bench to restrain a single detainee and the "no double bunking" policy greatly reduces the possibility of any type of assault in the booking area; however, it is recommended that the Station Commander post the first responder requirements in the booking area to ensure that the first responder requirements are met.

Standard 115.165 Coordinated response

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

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

The agency's coordinated response plan is found in General Order PRI-07 and is very detailed, providing directions for the first responder, Desk Officer, Duty Officer, State Police Investigator, Station Commander, Troop Commander, Reviewing Commissioned Officer, and the Field Services Division Commander. Additional directions are stated in General Order PRI-07A, regarding the conduct of investigations.

The plan clearly states that if the victim is transferred from the lockup to a jail, prison, or medical facility, the responsibility to inform the receiving facility of the incident, and the victim's potential need for medical or social services (unless the victim requests otherwise), rests with the Desk Officer. The facility reported that no detainees were transferred from the Station to a jail, prison, or medical facility as the result of an allegation of sexual abuse

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

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

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

The agency has entered into six collective bargaining agreements, which were reviewed for disciplinary issues. All six clearly state that employees covered by the agreements can be discharged, suspended, or demoted for just cause. Nothing in these agreements limits the agency's ability to remove alleged staff abusers from contact with detainees pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted.

Standard 115.167 Agency protection against retaliation

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

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

General Order PRI-07 states that the agency has a zero tolerance policy toward all forms of retaliation against anyone who reports sexual abuse and sexual harassment or who cooperates in a sexual abuse investigation.

Further, it states that the agency will take appropriate measures to prevent retaliation against individuals who report and/or cooperate with an investigation. The Department shall ensure that all detainees and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations are protected from retaliation by other detainees or staff, and shall designate which staff members or departments are charged with monitoring retaliation. A member or employee who has knowledge, suspicion, or information regarding an incident of retaliation against detainees or staff who reported such an incident and any staff neglect that may have contributed to such retaliation, shall immediately report such incident or retaliation to his or her immediate supervisor. Supervisors who receive reports of retaliation shall employ multiple protection measures, which may include:

- Cell changes or transfers for detainee victims or abusers;
- Removal of alleged staff or detainee abusers 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 detainees or staff who fear retaliation.

The policy directs each Station Commander to monitor all employees who report sexual abuse or sexual harassment to ensure that the employees are not subject to retaliatory actions by other employees and shall document same.

General Order ADM-18 states that any retaliation against an individual who has complained about harassment, sexual harassment, or discrimination, and any retaliation against individuals for cooperating with an investigation of a harassment, sexual harassment, or discrimination complaint is unlawful and will not be tolerated.

Division Commander's Order 17-DFS-034 designates Station Commanders as the Retaliation Monitor and directs Station Commanders to ensure that detainees and staff who report allegations are protected from retaliation.

The PREA Training Bulletin states that detainees and/or reporting parties must be free from retaliation for reporting sexual abuse and sexual harassment. Retaliation occurs when a staff member or detainee injures, harms, or intimidates a person who has reported sexual abuse and assault, or attempts to do so, in response to the report. Any retaliation against detainees or Department employees who reported such an incident must be reported to a supervisor.

All of the officers interviewed stated that they had not made any report of sexual abuse or sexual harassment during the previous twelve months, and therefore, would not have been subject to retaliation. The Station Commander reported that there were no incidents of retaliation during the previous twelve months because there were no reports made by staff or detainees of sexual abuse or sexual harassment.

Standard 115.171 Criminal and administrative agency investigations

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

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

General Order PRI-07 states that the agency shall ensure that an administrative or criminal investigation is completed for all allegations of detainee sexual abuse and/or sexual harassment pursuant to PRI-07A *Detainee Sexual Abuse and Sexual Harassment Investigations, Review and Data Collection*. General Order PRI-07A states that the agency will investigate allegations of sexual abuse and/or sexual harassment from the Department of Correction or Department of Youth Services; investigate allegations of sexual abuse and sexual harassment from within the Department of State Police; and, investigate allegations of sexual abuse and sexual harassment alleged by a detainee while detained at another facility. The policy states that the agency will use investigators who have received specialized training in the investigation of sexual abuse and sexual harassment.

General Order PRI-07A states that agency investigators when conducting an investigation into allegations of detainee sexual assault and/or sexual harassment, shall do the following:

- Gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data;
- Interview alleged victims, suspected perpetrators, and witnesses;
- Review prior complaints and reports of sexual abuse and/or sexual harassment involving the suspected perpetrator;
- Notify their Division Commander through channels of the possible outcome when the evidence appears to support criminal prosecution;
- Make relevant information regarding the status of the investigation available to the Department and/or requesting agency so that the detainee may be kept apprised of the investigation.

Further, 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. A criminal investigation will not be terminated because the alleged perpetrator separates from employment with the Department. Finally, if an outside agency investigates sexual contact, the Department will cooperate with the investigators and remain informed about the progress of the investigation.

A trooper would be entitled to demand transactional immunity, if compelled to give a statement under the threat of adverse employment action, including termination, or possible criminal indictment. Under the Massachusetts Declaration of Rights such a grant of immunity must be given by all DAs in the state and the Attorney General. Thus, this serves the intent of the Standard in that all prosecutors would have the final say regarding compelled statements. There would be no opportunity for an agency investigator to grant such immunity without the involvement and approval of the DAs. [*Baallioni v. Chief of Police of Salem*, 421 Mass. 229, 656 N.E.2d 1223 (1995); *Carney v. City of Springfield*, 403 Mass. 604, 532 N.E.2d (1988).]

Standard 115.172 Evidentiary standard for administrative investigations

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

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

General Order PRI-07A states that the agency's investigators must receive training on the criteria and evidence required to substantiate a case for administrative action or prosecution referral. The specialized investigator training Lesson Plan entitled *Investigation Outcomes – Prosecution Overview* states that the agency standard for substantiating an allegation is preponderance of the evidence. Department of Police Rules and Regulations Article 6 establishes the disciplinary procedures

for the agency. Article 6.7.8 requires the Trial Board to find guilt by a preponderance of the evidence on one or more of the charges.

Standard 115.176 Disciplinary sanctions for staff

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

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

General Order ADM-29, *Workplace Violence* states that any employee found to have engaged in any act of workplace violence, in violation of this policy, is subject to disciplinary action up to and including termination. "Workplace violence" includes, but is not limited to, acts and behavior that reasonably includes sexual abuse and sexual harassment.

General Order PRI-07 states that any employee determined to have engaged in sexual abuse or sexual harassment of detainees shall be subject to discipline. The presumptive sanction for having engaged in prohibited behavior under this policy is termination. All terminations for sexual abuse or sexual harassment would be referred to the appropriate law enforcement agency.

Standard 115.177 Corrective action for contractors and volunteers

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

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

General Order PRI-07 states that in the event that a contractor or volunteer has engaged in sexual abuse or has been convicted or adjudicated of having engaged in sexual abuse, he or she shall have no access or contact with detainees in Department custody. There are no contractors or volunteers currently working at this facility.

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

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

Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These

recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

General Order PRI-07A states that when there is probable cause to believe that a detainee had sexual contact with another detainee in a holding cell, the agency will make a criminal referral to the District Attorney's Office of jurisdiction or to the Attorney General's Office.

Standard 115.182 Access to emergency medical services

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

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

General Order PRI-07 states that the agency will 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. This offer is not contingent on the victim cooperating with any investigation of the incident.

The PREA Training Bulletin 2016-09 directs officers to provide victims, if requested, with prompt access to emergency medical treatment (at no cost to the victim, regardless of whether they cooperate with an investigation or name an abuser).

Standard 115.186 Sexual abuse incident reviews

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

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

General Order PRI-07A states that 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 allegation of sexual abuse of a detainee in Department custody. 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.

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 occurred to assess whether physical barriers in the area may enable abuse;
- Assess the adequacy of staffing levels in that area during different shifts; and
- Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff.

The General Order requires the PREA coordinator to submit a written report to the Colonel/Superintendent with findings and any recommendations for improvement. The Department shall implement any recommendations for improvement or document its reasons for not doing so.

Standard 115.187 Data collection

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

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

PREA Training Bulletin 2016-09 states that the agency is required to collect and keep data for every allegation using a standardized instrument and set of definitions, review data for areas for improvement, and store data collected for at least 10 years.

General Order PRI-07A states that the PREA Coordinator shall annually collect accurate, uniform data for every allegation of sexual abuse from the Stations. The incident-based data collected must include, at a minimum, the data necessary to answer all questions from the most recent version of the *Local Jail Jurisdiction Survey of Sexual Violence* or other instrument developed by the Department of Justice and designated for lockups.

This General Order also directs the agency to annually review data collected and aggregated in order to assess and improve the effectiveness of its sexual abuse prevention, detection, response policies, and training, including identifying problem areas, taking corrective action on an on-going basis, and preparing an annual report of its findings from its data review and any corrective actions for each lockup, as well as the agency as a whole.

The agency does not contract with private agencies for the confinement of its detainees. There were no allegations of sexual abuse or sexual harassment during the previous twelve months. The Department of Justice has not requested agency data.

Standard 115.188 Data review for corrective action

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

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

General Order PRI-07A directs the agency to annually review data collected and aggregated in order to assess and improve the effectiveness of its sexual abuse prevention, detection, response policies, and training, including identifying problem areas, taking corrective action on an on-going basis, and preparing an annual report of its findings from its data review and any corrective actions for each lockup, as well as the agency as a whole.

This General Order also requires the PREA Coordinator's report to include a comparison of the current year's data and PREA Audit Report

corrective actions with those from prior years and provide an assessment of the agency's progress in addressing sexual abuse. Upon approval of the Colonel, the report shall be made publically available upon request subject to redaction, if appropriate.

Required Corrective Action: Standard 115.188(c) requires the agency's report to be made readily available to the public through its website, if it has one. The agency does have a website; however, the General Order does not comply with the Standard in this regard and only makes the report available upon request. The agency needs to amend its policy and post all annual reports on its website. Standard 115.188(d) limits the use of redaction to specific materials where publication would present a clear and specific threat to the safety and security of the facility. The General Order is not limited and needs to be amended to comply with the Standard.

Corrective Action Completed: The agency's completed PREA Reports have been posted on the agency website.

Standard 115.189 Data storage, publication, and destruction

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

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

General Order PRI-07A requires the agency to securely retain all incident based and aggregate data collected in accordance with all applicable data security policies and procedures. It further requires that all data collected shall be retained at least 10 years after the date of initial collection, unless Federal, State or local law requires otherwise.

Corrective Action Required: Standard 115.189(b) requires that all aggregated sexual abuse data from lockups under its control to be made readily available to the public through its website, if it has one. The agency does have a website; however, the General Order does not address the Standard. The agency needs to amend its policy and post the data on its website.

Corrective Action Completed: The 2016 Annual PREA Report has been posted on the agency's website.

AUDITOR CERTIFICATION

I certify that:

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

Garret Peter Zeegers, Sr.

10/30/2017

Auditor Signature

Date