

# Prison Rape Elimination Act (PREA) Audit Report

## Adult Prisons & Jails

☐ Interim ☒ Final

Date of Report July 21, 2019

### Auditor Information

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Telephone: (517) 303-4081	Date of Facility Visit: April 22-24, 2019

### Agency Information

Name of Agency:		Governing Authority or Parent Agency (If Applicable):	
Massachusetts Department of Correction		State of Massachusetts	
Physical Address: 50 Maple Street Suite 3		City, State, Zip: Milford, MA 01747-3698	
Mailing Address: same as above		City, State, Zip: Click or tap here to enter text.	
Telephone: (508) 422-3481/3483		Is Agency accredited by any organization? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
The Agency Is:	<input type="checkbox"/> Military	<input type="checkbox"/> Private for Profit	<input type="checkbox"/> Private not for Profit
<input type="checkbox"/> Municipal	<input type="checkbox"/> County	<input checked="" type="checkbox"/> State	<input type="checkbox"/> Federal
Agency mission: Promote public safety by managing offenders while providing care and appropriate programming in preparation for successful re-entry into the community.			
Agency Website with PREA Information: <a href="http://www.mass.gov/how-to/report-a-prea-allegation">http://www.mass.gov/how-to/report-a-prea-allegation</a>			

### Agency Chief Executive Officer

Name: Carol Mici	Title: Commissioner
Email: Carol.Mici@doc.state.ma.us	Telephone: (508) 422-3330

### Agency-Wide PREA Coordinator

Name: Noemi Cruz	Title: PREA Coordinator
Email: Noemi.Cruz@doc.state.ma.us	Telephone: (508) 422-3646

<b>PREA Coordinator Reports to:</b> Michael Grant, Deputy Commissioner of Careers and Professional Development		<b>Number of Compliance Managers who report to the PREA Coordinator</b> 14	
<b>Facility Information</b>			
<b>Name of Facility</b> MCI Shirley			
<b>Physical Address:</b> Harvard Road, Shirley, MA 01464			
<b>Mailing Address (if different than above):</b> PO Box 1218, Shirley, MA 01464			
<b>Telephone Number:</b> (978) 425-4341			
<b>The Facility Is:</b>	<input type="checkbox"/> Military	<input type="checkbox"/> Private for profit	<input type="checkbox"/> Private not for profit
<input type="checkbox"/> Municipal	<input type="checkbox"/> County	<input checked="" type="checkbox"/> State	<input type="checkbox"/> Federal
<b>Facility Type:</b>	<input type="checkbox"/> Jail	<input checked="" type="checkbox"/> Prison	
<b>Facility Mission:</b> MCI Shirley's mission is to promote public safety by managing offenders while providing care and appropriate programming in preparation for successful re-entry into the community. Housed in a safe and secure environment provided by dedicated, professional staff who promote successful reintegration, appropriate programming and positive behavioral change among offenders in order to eliminate violence, victimization & recidivism.			
<b>Facility Website with PREA Information:</b> <a href="http://www.mass.gov/locations/mci-shirley">http://www.mass.gov/locations/mci-shirley</a>			
<b>Warden/Superintendent</b>			
<b>Name:</b> Colette M. Goguen		<b>Title:</b> Superintendent	
<b>Email:</b> Colette.Gougen@doc.state.ma.us		<b>Telephone:</b> (978) 425-4341 ext. 4100	
<b>Facility PREA Compliance Manager</b>			
<b>Name:</b> Sheila Creaton Kelly		<b>Title:</b> Deputy Superintendent of Reentry	
<b>Email:</b> Sheila.kelly@doc.state.ma.us		<b>Telephone:</b> (978) 425-4341 ext. 4800	
<b>Facility Health Service Administrator</b>			
<b>Name:</b> Elizabeth Louder		<b>Title:</b> Health Service Administrator	
<b>Email:</b> ELouder@wellpath.us		<b>Telephone:</b> (978) 425-4341 ext. 4400	
<b>Facility Characteristics</b>			
<b>Designated Facility Capacity:</b> 1019		<b>Current Population of Facility:</b> 1453	
<b>Number of inmates admitted to facility during the past 12 months</b>			1029

Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 30 days or more:			970		
Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 72 hours or more:			1023		
Number of inmates on date of audit who were admitted to facility prior to August 20, 2012:			204		
Age Range of Population:	Youthful Inmates Under 18: 0	Adults: 19-93			
Are youthful inmates housed separately from the adult population?		<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/> NA	
Number of youthful inmates housed at this facility during the past 12 months:			0		
Average length of stay or time under supervision:			832 days		
Facility security level/inmate custody levels:			Medium/minimum		
Number of staff currently employed by the facility who may have contact with inmates:			592		
Number of staff hired by the facility during the past 12 months who may have contact with inmates:			118		
Number of contracts in the past 12 months for services with contractors who may have contact with inmates:			0		
<b>Physical Plant</b>					
Number of Buildings: 22 Minimum/37 Medium		Number of Single Cell Housing Units: 2 - RHU			
Number of Multiple Occupancy Cell Housing Units:		21			
Number of Open Bay/Dorm Housing Units:		3			
Number of Segregation Cells (Administrative and Disciplinary):		59			
Description of any video or electronic monitoring technology (including any relevant information about where cameras are placed, where the control room is, retention of video, etc.): The facility has 212 cameras to monitor activities strategically located throughout the facility.					
<b>Medical</b>					
Type of Medical Facility:		Ambulatory Care, Nursing Care Unit and Crisis Stabilization Unit			
Forensic sexual assault medical exams are conducted at:		Community Hospital			
<b>Other</b>					
Number of volunteers and individual contractors, who may have contact with inmates, currently authorized to enter the facility:			138		
Number of investigators the agency currently employs to investigate allegations of sexual abuse:			8 (at this facility)		

## Audit Findings

### Audit Narrative

On April 22-24, 2019 an audit was conducted at the Massachusetts Correctional Institution (MCI) - Shirley to determine compliance with the Prison Rape Elimination Act standards finalized August 2012. The auditor was present at the facility from 7:00am to 7:30pm Monday, 7:00am to 7:00pm Tuesday and 7:30am to 11:00pm Wednesday. The facility was previously audited in March 2016 and found to be in compliance with all standards. There were no barriers to completing the audit. The auditor was selected to complete the audit by responding to the Request for Proposal and being awarded the bid.

The facility provided the auditor a compact disc (CD) with documents supporting how their agency meets the requirements of the standard approximately one month prior to the on-site audit. The facility reported that posters announcing the audit with the auditor's name and address were placed throughout the facility six weeks prior to the audit. Pictures of the posters announcing the audit were provided to the auditor to support this statement. They were placed in over fifty (50) areas within the facility. No correspondence was received prior to the audit. The Pre-Audit Questionnaire (PAQ) was received one month before the audit. A few items were missing information. The facility corrected this and provided an updated copy.

Prior to the audit, a search on the internet was conducted. The Agency website had a visible area on the main page on how to report sexual abuse and sexual harassment. In addition, the annual reports for the Agency and prior audit reports were available. The Auditor also reviewed the State's laws regarding juveniles, vulnerable adults, mandatory reporting requirements and confidentiality requirements for certificate sexual abuse counselors.

The Auditor notified the Prisoners' Legal Services (PLS) of the upcoming audits by email. Agreements were provided between the Agency and a nearby hospital to provide Sexual Assault Nurse Examiner (SANE)/Sexual Assault Forensic Exams (SAFE) services. The Boston Area Rape Crisis Center (BARCC) provided emotional support services and advocacy services per a contractual relationship. The Agency conducts its own sexual abuse and sexual harassment investigations. The Massachusetts State Police is the agency that will accept reports regarding allegations of sexual abuse or sexual harassment, including anonymously, and will forward to the Agency immediately.

Documents reviewed for this audit received four weeks prior to the audit included the Pre-audit questionnaire, policies, contracts, accreditation reports, vulnerability assessment, staffing plan, training curriculums, staff training records, contract/volunteer training records, logbooks, meeting minutes, population reports, sexual abuse incident review meeting minutes, and sexual abuse and harassment data.

A tentative schedule was sent to the facility five days prior to the audit. At that time, a list of randomly requested documentation was also provided to be available for the Auditor to take and/or review. The morning of the on-site audit, a brief formal meeting was held with the Executive Team and the auditor. The purpose of audit, goals and expectations were discussed. It was noted that interviews need to be in a private setting. Rosters of staff and inmates were provided; a list of random interviews was developed. The Superintendent provided the Auditor an overview of the facility.

A complete tour of the facility was conducted on April 22 (medium) and April 23 (minimum) 2019. The following areas and operations were visited and observed: inmate living areas, medical operations (nursing care unit, crisis stabilization unit, and ambulatory care), intake operations/holding cells, laundry services, library/education areas, chapel, programming areas, visiting room, and food service operations. Posters educating the inmates on PREA as well as announcing the audit were visible throughout the facility. They were behind a locked bulletin board in the housing units by the officers' station. Camera monitoring, supervision practices and assessment for blind spots were reviewed during this tour. Cross-gender announcements were made in all areas required. Inmate telephones were available in the housing units with reasonable spacing.

Formal interviews were conducted with the following:

Superintendent

PREA Compliance Manager

Health Services Administrator, Mental Health Director (contractual)

Three (3) investigators (two who conduct inmate investigations, one who conducts staff investigations and is the liaison with Internal Affairs)

Nurse (contractual, conducts intake risk assessments)

Booking Officer (provides information on PREA upon arrival)

Fourteen (14) corrections officers/sergeants/lieutenants from all areas of the facility and each shift  
Officers in Charge, Shift Commander

One caseworker (conducts orientation, works in the Orientation Unit)

Training officer

Grievance Officer

Volunteer Coordinator (assistant)

Housing Unit Assignment Officer (Participates in the PREA Incident Review Team)

Two Spectrum staff (contractual)

A total of 45 inmates were selected to be interviewed; three declined to be interviewed, one was attempted but not completed. No youthful offenders are housed at this facility. Targeted inmate interviews included the following:

- Two with limited English (both able to understand and speak broken English)
- Two self-admitted as homosexual
- Three self-identified as transgender
- Three who self-reported as having prior victimization
- Three inmates who required assistive devices for mobility (wheelchair and cane)
- One hard of hearing inmate
- One legally blind inmate
- Three inmates who are on the mental health caseload
- Four who have been involved in an investigation
- One cognitively impaired inmate (interview was attempted)
- Two inmates who were in confinement

Inmate interviews were held in the private interview rooms. Inmates were interviewed from each housing unit, including the long-term care unit and infirmary.

On-site documentation review included all investigations from 2018 and a verbal review of those initiated in 2019, access to all volunteer records, documentation requested from personnel files,

documentation requested from inmate files, documentation to support that all staff have received training, including contractual full-time staff, the application process for contractual staff, and access to all grievance records filed since 2018 to present.

Investigations are conducted by Inner Perimeter Security staff and the Superintendent's Special Investigator. A list of investigations from 1/1/2017 to present was provided along with a narrative summary of each investigation. Sixteen (16) investigations were closely reviewed. The following have occurred:

- Six (6) staff on inmate sexual abuse allegations
- Six (6) staff on inmate sexual harassment allegations
- Three (3) inmate on inmate sexual abuse allegations
- Zero (0) inmate on inmate sexual harassment allegations
- Zero retaliation allegations

Investigations demonstrated a successful outcome due to an anonymous note, two successful outcomes due to extra measures taken by the unit, two conducted due to grievances filed, one criminally referred, one conducted due to a third party allegation, one mental health report, and one resulting in a staff person re-assigned pending the investigation.

The auditor was allowed free access to all areas of the facility, access to interview inmates and staff selected randomly and intentionally, and to see any documentation requested.

After the on-site portion of the audit, documentation requested was reviewed.

## Facility Characteristics

MCI Shirley is located in Shirley, Massachusetts and is part of the Commonwealth of Massachusetts' Department of Correction. The facility consists of medium security, minimum security, restrictive housing units, a nursing care unit and a crisis stabilization unit. They house male inmates. The facility consists of 24 buildings and is located on 820 acres of land. Count on the first day of the audit was 1439. The facility is located across from the maximum-security prison in Massachusetts and typically received inmates who are ready to progress to medium custody, and often provides restrictive housing beds to inmates due security needs from that facility.

Medium custody general population inmates are housed in twelve separate units (two units to a building), separated by fencing. Housing consists of a two-story row of rooms located in three sides of a square with the officers/case worker office occupying the fourth side; provide direct, continuous supervision of the inmate rooms. Most are double bunked; some are designated for single cell use based on individual need or having earned the status due to time in the facility and behavior. One unit is designated for long term sentenced inmates (i.e. lifers). One is designated as the Orientation unit; another is the therapeutic treatment unit (substance abuse treatment). The capacity for these units ranges from 75 to 114 inmates. Each cell has a sink and a toilet. Showers are located behind the officers' station; five on the lower tier (one handicap accessible) five on the upper tier. They are individual stalls separated by concrete walls with appropriate doors/windows to enhance modesty yet provide security. All had at least two officers assigned. Movement by the inmate population is through a scheduled controlled movement.

The Restrictive Housing area is divided into two units, two-tiered. Rooms had single occupancy. Each room has a sink and a toilet. There are six showers (three upper, three lower), individual units separated by concrete. The Nursing Care Unit has twenty (20) beds (four wards-five beds) and eight (8) isolation cells. Each ward has a toilet, sink and shower. Two cells have showers that can be used if needed. The Crisis Stabilization Unit has one 9 bed ward (two bathrooms with sink, toilet and shower) and two single cells (sink and toilet).

The minimum custody unit occupies seven buildings previously used for training and was a formerly a Youth detention operation. They are positioned in a U shape with offices located at the center of the "U". It was occupied by the Department of Correction in 1991. Buildings have a variety of housing from two-man rooms to multiple occupancy housing, two to three levels occupied (including the basement level). Showers are located in the basement level in addition to laundry and recreational equipment; bathrooms and sinks are located on the level where inmate bunks are located. Inmates are assigned to the Correctional Recovery Academy. There is sufficient staff to provide supervision to this unique operation; they are diligent regarding walking the buildings, conducting 10 to 11 counts per shift.

This facility has numerous programming opportunities for the inmate population. Both minimum and medium compounds offer Correctional Recovery Academy (CRA), which is a therapeutic program (substance abuse treatment), typically six months long. There is an America's Vet Dog program in two units; inmates train puppies to become service dogs. The Education department provides Adult Basic Education (ABE), General Education Development (GED), computer skills, English as a Second Language and some college opportunities. Vocational programming consists of a barber school and culinary arts program. There is a sewing shop and a wood shop opportunity for work in addition to the

typical inmate work opportunities (food services, janitorial, canteen, laundry, clerks, etc.). The infirmary uses inmates as companions to assist inmates in the nursing care unit under direct supervision.

On the day of the audit, the facility had 502 employees, 86 vacancies (not including contractual staff). The Agency has been hiring new officers starting in 2018; this facility was anticipating receiving new officers who graduated the Friday following the audit. Contractual staff consists of Spectrum (Correctional Training Academy staff and other programming), and Wellpath, Inc. (medical and mental health staff).

## Summary of Audit Findings

### Number of Standards Exceeded: 6

- §115.17 – Hiring and Promotion Decisions
- §115.21 – Evidence Protocol and Forensic Medical Examinations
- §115.32 – Volunteer and Contractor Training
- §115.41 – Screening for Risk of Victimization and Abusiveness
- §115.53 – Inmate Access to Outside Confidential Support Services
- §115.87 – Data Collection

### Number of Standards Met: 39

- §115.11 – Zero tolerance of sexual abuse and sexual harassment; PREA coordinator
- §115.12 – Contracting with other entities for the confinement of inmates
- §115.13 – Supervision and Monitoring
- §115.14 – Youthful Inmates
- §115.15 – Limits to Cross-Gender Viewing and Searches
- §115.16 – Inmates with Disabilities and Inmates who are Limited English Proficient
- §115.18 – Upgrades to Facilities and Technology
- §115.22 – Policies to Ensure Referrals of Allegations for Investigations
- §115.31 – Employee Training
- §115.33 – Inmate Education
- §115.34 – Specialized Training: Investigations
- §115.35 – Specialized training: Medical and mental health care
- §115.42 – Use of Screening Information
- §115.43 – Protective Custody
- §115.51 – Inmate Reporting
- §115.52 – Exhaustion of Administrative Remedies
- §115.54 – Third-Party Reporting
- §115.61 – Staff and Agency Reporting Duties
- §115.62 – Agency Protection Duties
- §115.63 – Reporting to Other Confinement Facilities
- §115.64 – Staff First Responder Duties
- §115.65 – Coordinated Response
- §115.66 – Preservation of ability to protect inmates from contact with abusers
- §115.67 – Agency protection against retaliation
- §115.68 – Post-Allegation Protective Custody
- §115.71 – Criminal and Administrative Agency Investigations
- §115.72 – Evidentiary Standard for Administrative Investigations
- §115.73 – Reporting to Inmate
- §115.76 – Disciplinary sanctions for staff



§115.77 – Corrective action for contractors and volunteers  
§115.78 – Disciplinary sanctions for inmates  
§115.81 – Medical and mental health screenings; history of sexual abuse  
§115.82 – Access to emergency medical and mental health services  
§115.83 – Ongoing medical and mental health care for sexual abuse victims and abusers  
§115.86 – Sexual abuse incident reviews  
§115.88 – Data Review for Corrective Action  
§115.89 – Data Storage, Publication, and Destruction

**Number of Standards Not Met: 0**

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

Formal corrective action was required for the following:

**§115.51 – Inmate Reporting**

The Agency was required to revise who the inmates can report to outside the agency to ensure it can be immediately transmitted and inmates can remain anonymous. The Massachusetts State Police is the agency that will accept reports regarding allegations of sexual abuse or sexual harassment, including anonymously, and will forward to the Agency immediately.

**§115.64 – Staff First Responder Duties**

The Agency revised policy to better reflect that the victim is to be requested to preserve evidence while staff ensure that the alleged perpetrator preserve evidence.

## PREVENTION PLANNING

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

#### 115.11 (a)

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

#### 115.11 (b)

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

#### 115.11 (c)

- If this agency operates more than one facility, has each facility designated a PREA compliance

manager? (N/A if agency operates only one facility.) ☒ Yes ☐ No ☐ NA

- Does the PREA compliance manager have sufficient time and authority to coordinate the facility's efforts to comply with the PREA standards? (N/A if agency operates only one facility.)  
☒ Yes ☐ No ☐ NA

### Auditor Overall Compliance Determination

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

This standard requires the following: (a) An agency shall have a written policy mandating zero tolerance toward all forms of sexual abuse and sexual harassment and outlining the agency's approach to preventing, detecting, and responding to such conduct. (b) An agency shall employ or designate an upper-level, agency-wide PREA coordinator with sufficient time and authority to develop, implement, and oversee agency efforts to comply with the PREA standards in all of its facilities and (c) Where an agency operates more than one facility, each facility shall designate a PREA compliance manager with sufficient time and authority to coordinate the facility's efforts to comply with the PREA standards.

103 DOC 519 Sexual Harassment/Abuse Response and Prevention Policy revised July 2018 (SHARPP) and the institutional procedural attachment support a zero tolerance for sexual abuse and harassment as well as defines how the agency will prevent, detect and report this conduct (a).

It ensures there is an agency-wide PREA Coordinator. The agency PREA Coordinator and her assistant were available during the entire audit to provide documentation or clarification of questions the auditor posed. Interviews were conducted with the agency PREA Coordinator. She indicated she has sufficient time to manager her duties. She meets with the PREA Managers quarterly to discuss any issues or concerns with the requirements. This meeting includes medical staff, a representative from BARCC and technical support staff (b).

The PREA Manager is the Deputy Superintendent. She indicated in her interview that she has time and authority to accomplish what is needed to be in compliance with the standards. She also serves at the ADA Coordinator for the facility, which facilitates ensuring that inmates with disabilities are able to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment (c). The interview with the Superintendent confirmed that she supports the PREA process and the PREA Manager (Deputy Superintended) as well.

An interview with the Deputy Commissioner (Commissioner Designee) was conducted on June 6, 2019 while conducting the audit at MCI-Framingham. The Commissioner supports the agency PREA Coordinator and the requirements to implement the SHARPP. PREA is considered when upgrading video monitoring, during mission changes at individual facilities and during the statewide staffing analysis, as was indicated within each facility analysis. It was noted that the annual report is circulated among the Executive Office for review and comments. There is a continued commitment to the PREA Unit, which dedicated solely to the PREA mission.

Overall observations during the audit process, interviews with the agency Deputy Commissioner, PREA Coordinator, Superintendent and PREA Manager supports a finding of compliance with this standard.

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

### **115.12 (a)**

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

### **115.12 (b)**

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

### **Auditor Overall Compliance Determination**

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

This agency uses an inter-state compact agreement with other states. A review of the contract supported the requirements of this standard, which includes the obligation to comply with PREA standards and provide for agency contract monitoring.

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

### **115.13 (a)**

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

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

#### 115.13 (b)

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

#### 115.13 (c)

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

#### 115.13 (d)

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

#### Auditor Overall Compliance Determination

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

The requirements of the standard are as follows: (a) The agency shall ensure that each facility it operates shall develop, document, and make its best efforts to comply on a regular basis with a staffing plan that provides for adequate levels of staffing, and, where applicable, video monitoring, to protect inmates against sexual abuse. In calculating adequate staffing levels and determining the need for video monitoring, facilities shall take into consideration:

- (1) Generally accepted detention and correctional practices;
- (2) Any judicial findings of inadequacy;
- (3) Any findings of inadequacy from Federal investigative agencies;
- (4) Any findings of inadequacy from internal or external oversight bodies;

- (5) All components of the facility's physical plant (including "blind-spots" or areas where staff or inmates may be isolated);
  - (6) The composition of the inmate population;
  - (7) The number and placement of supervisory staff;
  - (8) Institution programs occurring on a particular shift;
  - (9) Any applicable State or local laws, regulations, or standards;
  - (10) The prevalence of substantiated and unsubstantiated incidents of sexual abuse; and
  - (11) Any other relevant factors.
- (b) In circumstances where the staffing plan is not complied with, the facility shall document and justify all deviations from the plan.
- (c) Whenever necessary, but no less frequently than once each year, for each facility the agency operates, in consultation with the PREA coordinator required by § 115.11, the agency shall assess, determine, and document whether adjustments are needed to:
- (1) The staffing plan established pursuant to paragraph (a) of this section;
  - (2) The facility's deployment of video monitoring systems and other monitoring technologies; and
  - (3) The resources the facility has available to commit to ensure adherence to the staffing plan.
- (d) Each agency operating a facility shall implement a policy and practice of having intermediate-level or higher-level supervisors conduct and document unannounced rounds to identify and deter staff sexual abuse and sexual harassment. Such policy and practice shall be implemented for night shifts as well as day shifts. Each agency shall have a policy to prohibit staff from alerting other staff members that these supervisory rounds are occurring, unless such announcement is related to the legitimate operational functions of the facility.

510 Security Staffing Plan, 512 Post Orders and 519 SHARPP address the requirements of this standard. The actual Post Orders reinforce the requirement of unannounced rounds and prohibit staff from reporting when the supervisor is making rounds to other positions (d). The staffing levels of correction officers and supervisors are reviewed formally annually by the agency and are specific to each institution. This includes an assessment as defined by the eleven specific requirements to be reviewed with the staffing analysis (a). Per the interview with the Superintendent and PREA Manager, the facility assesses staffing levels daily at the multi-disciplinary meeting conducted every morning. There is a minimum staffing requirement that must be met daily. Staffing placement is based on location and time of staff programming. No deviations from the staffing plan were noted as overtime is used to meet required mandatory staffing, when necessary (b). As there is a strong union presence in this state, the Auditor finds this credible. The PREA Manager and Coordinator have input into staffing levels as confirmed by interviews and documentation.

A review of the staffing plan led to the following information:

- (1) This agency embraces generally accepted correctional practices by using the American Correctional Association (ACA) standards as a management tool and practicing sound communication by having daily executive team meetings and executive staff be accessible to the inmate population regularly during meal times.
- (2) There have been no judicial findings of inadequacy (as confirmed by the interview with the Superintendent and the PREA Manager as well as a search of the internet).
- (3) There have been no findings of inadequacy from Federal investigative agencies.
- (4) The facility is audited twice by the Policy Development and Compliance Unit (PDCU) as well as externally by the ACA. The accreditation report was available for the auditor to review.
- (5) The facility conducts an extensive vulnerability assessment, which addresses camera placement, PREA investigations (10), and changes in the physical plant, as well as a detailed assessment of blind spots and camera coverage.

- (6) The inmate population (as described in the narrative section) is included when assessing staffing levels.
- (7) The number and placement of supervisory staff is included in the staffing analysis.
- (8) Institution programs occurring on a particular shift is included in the staffing analysis.
- (9) The State of Massachusetts recently passed a Criminal Justice Reform Bill of 2018 which has impacted changes which has been considered when assessing staffing levels.
- (11) Any other relevant factors.

The auditor found the facility in compliance with the standard based on the following: review of policy; staff interview (supervisory and correctional officers); review of randomly requested staffing rosters for the 5th day of each month for the previous six months; and review of randomly selected documentation of unannounced rounds which demonstrate compliance with unannounced rounds, showing frequent supervisory rounds throughout the 24-hour period for all housing units. Review of the staffing plan demonstrates a meaningful review of operations. Per the interviews with the PREA Manager and PREA Coordinator, and the Deputy Commissioner, input is included in the review process. Supervisory interviews, officer interviews and inmate interviews support compliance along with documentation.

## **Standard 115.14: Youthful inmates**

### **115.14 (a)**

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

### **115.14 (b)**

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

### **115.14 (c)**

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

## Auditor Overall Compliance Determination

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

Part I, Title XVII, Chapter 119 and Section 58 effective September 2013 requires offenders under the age of 18 to be confined to the Department of Youth Services, this is referred to as the Raise the Age Bill. During the audit, neither auditor saw or heard anything to dispute that no youths are housed at this facility.

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

### 115.15 (a)

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

### 115.15 (b)

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

### 115.15 (c)

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

### 115.15 (d)

- Does the facility implement a policy and practice that enables inmates to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their



breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks? ☒ Yes ☐ No

- Does the facility require staff of the opposite gender to announce their presence when entering an inmate housing unit? ☒ Yes ☐ No

#### 115.15 (e)

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

#### 115.15 (f)

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

#### Auditor Overall Compliance Determination

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

This standard has the following requirements: (a) The facility shall not conduct cross-gender strip searches or cross-gender visual body cavity searches (meaning a search of the anal or genital opening) except in exigent circumstances or when performed by medical practitioners.

(b) As of August 20, 2015, or August 20, 2017 for a facility whose rated capacity does not exceed 50 inmates, the facility shall not permit cross-gender pat-down searches of female inmates, absent exigent circumstances. Facilities shall not restrict female inmates' access to regularly available programming or other out-of-cell opportunities in order to comply with this provision.

(c) The facility shall document all cross-gender strip searches and cross-gender visual body cavity searches, and shall document all cross-gender pat-down searches of female inmates.

(d) The facility shall implement policies and procedures that enable inmates to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts,

buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks. Such policies and procedures shall require staff of the opposite gender to announce their presence when entering an inmate housing unit.

(e) The facility shall not search or physically examine a transgender or intersex inmate for the sole purpose of determining the inmate's genital status. If the inmate's genital status is unknown, it may be determined during conversations with the inmate, by reviewing medical records, or, if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner.

(f) The agency shall train security staff in how to conduct cross-gender pat-down searches, and searches of transgender and intersex inmates, in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.

519 SHARPP, 506 Search Policy and 512 Post Orders address the requirements of this standard, indicating that cross gender strip or cavity searches can only be conducted in the event of exigent circumstances. It was reported that cross gender strip searches have not occurred. No evidence disputing this was observed or reported in interviews. In the event of exigent circumstances requiring a cross gender strip search, a report would be written and sent to the superintendent. Cavity searches are only conducted by medical staff and require authorization by the superintendent. Staff and inmate interviews as well as demonstration while touring the facility confirm that female staffs announce their presence in the units (a). There are no females housed at this facility (b,c)

519 SHARPP specifically states that Superintendents shall implement procedures that that enable inmates to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks. All inmate interviews confirmed that they are able to perform bodily functions, change clothes and use the shower without female staff watching them. 519 SHARPP further reinforces the requirement in 512 Post Orders which require staff of the opposite gender to verbally announce or be verbally announced when entering the housing unit which changes the status quo of the gender of the staff assigned(d).

Policy supports that transgender/intersex inmates will not be searched for the sole purpose of determining genital status. All staff interviews confirmed that staff are knowledgeable regarding this requirement (e).

Staff interviews support that staff has been trained in how to conduct pat down searches of transgender/intersex inmates. The Criminal Justice Reform Bill of 2018 now allows a transgender/intersex inmate to choose the gender of the staff to strip search them. No concerns regarding this were noted during the audit in either staff interviews or inmate interviews. Training curriculums address how to professionally conduct clothed and unclothed searches as well as pat down searches of transgender inmates (f).

Review of documentation, staff and inmate interview, announcements during the audit and review of investigations support compliance with the standard.

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

### **115.16 (a)**

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

- Does the agency ensure that written materials are provided in formats or through methods that ensure effective communication with inmates with disabilities including inmates who: Are blind or have low vision? ☒ Yes ☐ No

#### 115.16 (b)

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

#### 115.16 (c)

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

#### Auditor Overall Compliance Determination

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

The standard has the following requirements: (a) The agency shall take appropriate steps to ensure that inmates with disabilities (including, for example, inmates who are deaf or hard of hearing, those who are blind or have low vision, or those who have intellectual, psychiatric, or speech disabilities), have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment. Such steps shall include, when necessary to ensure effective communication with inmates who are deaf or hard of hearing, providing access to interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary. In addition, the agency shall ensure that written materials are provided in formats or through methods that ensure effective communication with inmates with disabilities, including inmates who have intellectual disabilities, limited reading skills, or who are blind or have low vision. An agency is not required to take actions that it can demonstrate would result in a fundamental alteration in the nature of a service, program, or activity, or in undue financial and administrative burdens, as those terms are used in regulations promulgated under title II of the Americans With Disabilities Act, 28 CFR 35.164.

(b) The agency shall take reasonable steps to ensure meaningful access to all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment to inmates who are limited English proficient, including steps to provide interpreters who can interpret effectively,

accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary.

(c) The agency shall not rely on inmate interpreters, inmate readers, or other types of inmate assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the inmate's safety, the performance of first-response duties under § 115.64, or the investigation of the inmate's allegations.

519 SHARPP, 408 Reasonable Accommodations for Inmates, 401 Booking & Admissions and 488 Institution Procedures for Telephone Interpreter Service address the requirements of this standard. Policy supports that inmates with disabilities will not be discriminated against and are protected by the requirements of the Americans with Disabilities Act (ADA). Currently at this facility there are no deaf inmates; there is one legally blind inmate. Processes and equipment are in place to address these needs such as a video relay telephone service located in the orientation unit. Inmates with intellectual or psychiatric disabilities are assisted by the medical & mental health staff, who identify these needs during the intake process and from the medical record which identifies the needs upon arrival. Informational materials (poster, handbook, PREA video) are available in English, Spanish and closed-caption. There is also a contract with a certified sign language interpreter to assist when necessary. The Deputy Superintendent of Reentry serves as the ADA coordinator and PREA manager and further ensures needs are met for inmates with disability, intellectual, psychiatric or speech needs (a).

Policy requires that inmates will be provided orientation materials in English or in Spanish; if another language is presented, telephonic interpreter service will be provided. Language interpreter services are available to assist with limited English inmates. The auditor received and viewed the inmate orientation manual in English and in Spanish. PREA posters visible throughout the facility are in English and Spanish. Staff interviews support compliance indicating they have used this when needed for conducting business with inmates (b). Staff and inmate interviews confirm that inmates will not be relied upon to interpret unless no other options are available, and have not been relied on (c). This facility also has 34 bi-lingual staff that can interpret for twelve languages, including sign language. There is a contract with a language line interpreter service available to staff as well.

The auditor finds the standard to be in compliance due to review of the policies, PREA posters (English, Spanish and posted at a level that an inmate in a wheelchair can read), Inmate handbooks, observations during the tour regarding housing for disabled inmates, interviews with staff that support inmates are not used to interpret, interview with the PREA Manager/ADA coordinator regarding identification of needs and how they are provided accommodations,

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

### **115.17 (a)**

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

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

#### 115.17 (b)

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

#### 115.17 (c)

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

#### 115.17 (d)

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

#### 115.17 (e)

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

#### 115.17 (f)

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

#### 115.17 (g)

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

#### 115.17 (h)

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

#### Auditor Overall Compliance Determination

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

The standard has the following requirements: (a) The agency shall not hire or promote anyone who may have contact with inmates, and shall not enlist the services of any contractor who may have contact with inmates, who—(1) Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997); (2) Has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or (3) Has been civilly or administratively adjudicated to have engaged in the activity described in paragraph (a)(2) of this section. (b) The agency shall consider any incidents of sexual harassment in determining whether to hire or promote anyone, or to enlist the services of any contractor, who may have contact with inmates. (c) Before hiring new employees who may have contact with inmates, the agency shall: (1) Perform a criminal background records check; and (2) Consistent with Federal, State,

and local law, make its best efforts to contact all prior institutional employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse. (d) The agency shall also perform a criminal background records check before enlisting the services of any contractor who may have contact with inmates. (e) The agency shall either conduct criminal background records checks at least every five years of current employees and contractors who may have contact with inmates or have in place a system for otherwise capturing such information for current employees. (f) The agency shall ask all applicants and employees who may have contact with inmates directly about previous misconduct described in paragraph (a) of this section in written applications or interviews for hiring or promotions and in any interviews or written self-evaluations conducted as part of reviews of current employees. The agency shall also impose upon employees a continuing affirmative duty to disclose any such misconduct. (g) Material omissions regarding such misconduct, or the provision of materially false information, shall be grounds for termination. (h) Unless prohibited by law, the agency shall provide information on substantiated allegations of sexual abuse or sexual harassment involving a former employee upon receiving a request from an institutional employer for whom such employee has applied to work.

201 Selection and Hiring, May 2018, Rules and Regulations Governing All Employees of the Massachusetts Department of Correction (Blue Book) address the requirements of this standard, including incidents of previous sexual harassment. It states that all candidates for employment or promotion who may have contact with inmates shall be asked either in writing or in the interview the following: (1) has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (2) has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or (3) has been civilly or administratively adjudicated to have engaged in the activity in the community facilitated by force, overt or implied threats of force, or coercions or if the victim did not consent or was unable to consent or refuse. (a, f). Policy also states, Material omission regarding such misconduct, or the provision of materially false information, shall be grounds for termination (g). 201 Selection and Hiring require that a criminal record check be conducted on all new employees prior to performing duties (c-1). The criminal background check includes a check of local agencies, state agencies and National Criminal Information Center (NCIC) (c-2). The Rules and Regulations Governing all Employees of the Massachusetts Department of Correction requires all staff to promptly report in writing any involvement with law enforcement officers pertaining to any investigation, arrest or court appearances(f). A memo issued by the Assistant Deputy Commissioner of Administration, February 2015, enforces all the requirements of this standard verbatim (a,b,c,d,e,f,g, h). It further reinforces that a criminal background check will be conducted on all employees every four years, to include contractors (e).

Human Resources are centralized. An interview with the Deputy Commissioner who supervises Human Resources and Supervising Identification Agent was conducted on June 6, 2019. This interview confirmed compliance with agency hiring practices with the standards, including background checks and reference checks (c). There is a requirement of acknowledgement of a continuing duty to report behavior, including behavior outside the job that conflicts with PREA standards and that termination may result for omission. This is noted in the employee rules and regulations (Blue Book). Staff sign for receipt.



A criminal background records check every four years has been implemented for staff, therefore exceeding the requirements of the standard. A database has been developed to notify the human resource department when an employee is due for this check. Randomly selected staff yielded documentation to support that 24 staff have had a background check conducted. Documentation for four new contractual employees was reviewed showing that they are asked the questions in subpart a., background checks are conducted, and they sign noting they have a continuing duty to report and failure to do so will result in discharge. Documentation for one promotional check was provided showing compliance as well. The auditor requested and received background checks for seven new employees showing that references were contacted (or attempted) including law enforcement references. Additionally, the Deputy Director confirmed that staff completes the background checks for perspective contractual staff as supported by policy (d). According to the interview with the Deputy Commissioner, staff in the Human Resources department would provide information on former employees who resigned or were terminated due to substantiated allegations of sexual abuse or sexual harassment with a signed waiver.

Compliance based on the interview with the Deputy Director for Human Resources and Supervising Identification Agent, policy and documentation provided demonstrating 26 randomly selected staff have received the Blue Book, have had background checks. Exceeds standard finding based on background checks conducted within four years.

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

### **115.18 (a)**

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

### **115.18 (b)**

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

### **Auditor Overall Compliance Determination**

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

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

This standard has the following requirements: (a) When designing or acquiring any new facility and in planning any substantial expansion or modification of existing facilities, the agency shall consider the effect of the design, acquisition, expansion, or modification upon the agency's ability to protect inmates from sexual abuse. (b) When installing or updating a video monitoring system, electronic surveillance system, or other monitoring technology, the agency shall consider how such technology may enhance the agency's ability to protect inmates from sexual abuse.

703.01 & .10 Design Criteria and Planning Guidelines address the requirements of this standard by stating, when designing or acquiring any new facility and in planning any substantial expansion or modification of existing facilities, the agency shall consider the effect of the design, or modification upon the Department's ability to protect inmates from sexual abuse. The facility is currently building a new food service area. Per the interview with the Superintendent, ability to protect inmates from sexual abuse has been considered in the design(a).

703.01 & .10 Design Criteria and Planning Guidelines further states, when installing or updating a video monitoring system, the electronic surveillance system, or other monitoring technology, the department shall consider how such technology may enhance the department's ability to protect inmates from sexual abuse. Documentation showing review of video monitoring with consideration for the PREA requirements was provided (b). An upgrade to the camera monitoring system was completed in May 2018. Camera placement was pointed out during the tour of the facility as well as where live monitoring stations are located and where recordable monitors are located. The system was also reviewed during the audit process to gauge views of inmate/offender living areas; no concerns were noted. Priority of placement of cameras is decided by the result of the vulnerability assessment (agency level) and by PREA incident reviews (facility level) (b).

Review of the policy, interview with the Superintendent, review of the extensive vulnerability assessment and camera placement review and documentation in addition to observations made during the audit all support evidence for the Auditor to find this standard compliant.

## RESPONSIVE PLANNING

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

#### 115.21 (a)

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

#### 115.21 (b)

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

#### 115.21 (c)

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

#### 115.21 (d)

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

#### 115.21 (e)

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

#### 115.21 (f)

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

#### 115.21 (g)

- Auditor is not required to audit this provision.

#### 115.21 (h)

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

#### Auditor Overall Compliance Determination

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

The following is required for this standard: (a) To the extent the agency is responsible for investigating allegations of sexual abuse, the agency shall follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions.

(b) The protocol shall be developmentally appropriate for youth where applicable, and, as appropriate, shall be adapted from or otherwise based on the most recent edition of the U.S. Department of Justice's Office on Violence Against Women publication, "A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents," or similarly comprehensive and authoritative protocols developed after 2011.

(c) The agency shall offer all victims of sexual abuse access to forensic medical examinations, whether on-site or at an outside facility, without financial cost, where evidentiary or medically appropriate. Such examinations shall be performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) where possible. If SAFEs or SANEs cannot be made available, the examination can be performed by other qualified medical practitioners. The agency shall document its efforts to provide SAFEs or SANEs.

(d) The agency shall attempt to make available to the victim a victim advocate from a rape crisis center. If a rape crisis center is not available to provide victim advocate services, the agency shall make available to provide these services a qualified staff member from a community-based organization, or a qualified agency staff member. Agencies shall document efforts to secure services from rape crisis centers. For the purpose of this standard, a rape crisis center refers to an entity that provides intervention and related assistance, such as the services specified in 42 U.S.C. 14043g(b)(2)(C), to

victims of sexual assault of all ages. The agency may utilize a rape crisis center that is part of a governmental unit as long as the center is not part of the criminal justice system (such as a law enforcement agency) and offers a comparable level of confidentiality as a nongovernmental entity that provides similar victim services.

(e) As requested by the victim, the victim advocate, qualified agency staff member, or qualified community-based organization staff member shall accompany and support the victim through the forensic medical examination process and investigatory interviews and shall provide emotional support, crisis intervention, information, and referrals.

(f) To the extent the agency itself is not responsible for investigating allegations of sexual abuse, the agency shall request that the investigating agency follow the requirements of paragraphs (a) through (e) of this section.

(g) The requirements of paragraphs (a) through (f) of this section shall also apply to:

(1) Any State entity outside of the agency that is responsible for investigating allegations of sexual abuse in prisons or jails; and

(2) Any Department of Justice component that is responsible for investigating allegations of sexual abuse in prisons or jails.

(h) For the purposes of this section, a qualified agency staff member or a qualified community-based staff member shall be an individual who has been screened for appropriateness to serve in this role and has received education concerning sexual assault and forensic examination issues in general.

519 SHARPP and Massachusetts Partnership for Correctional Health Care (MPCH) 57.00 Sexual Assault/PREA Compliance (adopted by Wellpath, Inc), IPS Field Manual 9.25A Evidence Gathering all address the requirements of this standard. 519 SHARPP ensures that in the event of sexual abuse, with the victim's consent, the inmate will be transported to an outside hospital with a SANE program where he/she will receive the forensic exam at no cost. In addition, there is a Letter of Agreement with a nearby hospital, which indicates that victim services and SANE exams are provided at the hospital. There is an updated Memo of Understanding with the Massachusetts State Police (MSP) requesting that they will comply with the investigation requirements of the PREA (f). Some of the MSP have been trained by the Agency PREA coordinator. In addition, there is a Department of State Police General Order entitled, Detainee Sexual Abuse and Sexual Harassment Investigations that indicates MSP will comply with the Prison Rape Elimination Act for youths and adults.

Boston Area Rape Crisis Center (BARCC) provides services to victims; a contract has been signed (d). Staff from BARCC receives a minimum of 40 hours of training to assist victims of sexual abuse (h). These staff will accompany the victim if requested (e). Additionally, BARCC staff have toured the facilities to become familiar with the layout, and provided additional training to staff and inmates. BARCC staff also personally present at the weekly orientation program at the reception facilities, therefore exceeding the standard.

Each facility has a specific Response Plan in the event of a sexual abuse incident, which includes a "PREA kit" to ensure proper handling of evidence. Facility investigators were trained in conjunction with the Massachusetts Department of Corrections Sexual Assault Investigation Training. Evidence Protocol and Forensic Medical Examinations are based from the Sexual Assault Investigator Certification Curriculum, Municipal Police Training Committee (a, b).

A review of completed investigations from the previous 12 months confirmed use of a uniform evidence protocol. There are no youths housed at this facility.

An interview with staff from BARCC support that they do have staff available to victim advocate services.

Exceeds standard finding based on the contract with state police, additional training with state police, proactive approach and cooperation between BARCC and the agency to ensure compliance with the standard.

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

### 115.22 (a)

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

### 115.22 (b)

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

### 115.22 (c)

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

### 115.22 (d)

- Auditor is not required to audit this provision.

### 115.22 (e)

- Auditor is not required to audit this provision.

## Auditor Overall Compliance Determination

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

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

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

This standard has the following requirements: (a) The agency shall ensure that an administrative or criminal investigation is completed for all allegations of sexual abuse and sexual harassment. (b) The agency shall have in place a policy to ensure that allegations of sexual abuse or sexual harassment are referred for investigation to an agency with the legal authority to conduct criminal investigations, unless the allegation does not involve potentially criminal behavior. The agency shall publish such policy on its website or, if it does not have one, make the policy available through other means. The agency shall document all such referrals. (c) If a separate entity is responsible for conducting criminal investigations, such publication shall describe the responsibilities of both the agency and the investigating entity. (d) Any State entity responsible for conducting administrative or criminal investigations of sexual abuse or sexual harassment in prisons or jails shall have in place a policy governing the conduct of such investigations. (e) Any Department of Justice component responsible for conducting administrative or criminal investigations of sexual abuse or sexual harassment in prisons or jails shall have in place a policy governing the conduct of such investigations.

519 SHARPP address the requirements of this standard. It requires all staff to report suspicions and knowledge of abuse, harassment, and retaliation in addition to reporting neglect to the shift commander, who must then report to the superintendent immediately. The Superintendent ensures that the Duty Station is notified immediately, which initiates notification to the Chief of Office of Investigative Services (OIS), Internal Affairs Unit (IAU) (b). This policy is available on the Massachusetts Department of Correction's website. 522 Internal Affairs Policy is also posted on the website (c). 519 SHARPP further states that the Department shall accept and investigate all verbal, written, and anonymous third-party reports of third-party sexual abuse/harassment allegations (a).

Policies noted above support the requirements of the standard. Sixteen completed investigations from the previous 12 months were thoroughly reviewed and demonstrated compliance with the standards. The superintendent ensures that the proper investigating entity is contacted (Office of Investigation Services, outside law enforcement or the staff investigator), as confirmed by interviews and review of documentation. Therefore, the standard is deemed compliant.

## TRAINING AND EDUCATION

### Standard 115.31: Employee training

#### 115.31 (a)

- Does the agency train all employees who may have contact with inmates on its zero-tolerance policy for sexual abuse and sexual harassment? ☒ Yes ☐ No
- Does the agency train all employees who may have contact with inmates on how to fulfill their responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures? ☒ Yes ☐ No

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

#### 115.31 (b)

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

#### 115.31 (c)

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

#### 115.31 (d)



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

### Auditor Overall Compliance Determination

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

Requirements for this standard include the following: (a) The agency shall train all employees who may have contact with inmates on: (1) Its zero-tolerance policy for sexual abuse and sexual harassment; (2) How to fulfill their responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures; (3) Inmates' right to be free from sexual abuse and sexual harassment; (4) The right of inmates and employees to be free from retaliation for reporting sexual abuse and sexual harassment; (5) The dynamics of sexual abuse and sexual harassment in confinement; (6) The common reactions of sexual abuse and sexual harassment victims; (7) How to detect and respond to signs of threatened and actual sexual abuse; (8) How to avoid inappropriate relationships with inmates; (9) How to communicate effectively and professionally with inmates, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming inmates; and (10) How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities. (b) Such training shall be tailored to the gender of the inmates at the employee's facility. The employee shall receive additional training if the employee is reassigned from a facility that houses only male inmates to a facility that houses only female inmates, or vice versa. (c) All current employees who have not received such training shall be trained within one year of the effective date of the PREA standards, and the agency shall provide each employee with refresher training every two years to ensure that all employees know the agency's current sexual abuse and sexual harassment policies and procedures. In years in which an employee does not receive refresher training, the agency shall provide refresher information on current sexual abuse and sexual harassment policies. (d) The agency shall document, through employee signature or electronic verification that employees understand the training they have received.

216.13 Training and Staff Development, dated May 2018, reflect that staff with inmate contact receive training specific to the requirements of the PREA standards. It specifies that the training shall be tailored to the gender of the inmates at the employee's facility and requires additional training to an employee that transfers from a facility that houses different gender inmates (b). It further requires that appropriate documentation shall be maintained demonstrating completion of the training. A review of the training curriculum supports compliance as the following topics are addressed: review of the PREA law, US Department of Justice statistics, Massachusetts DOC statistics, an inmates right to be free from sexual abuse (a-3), the Department's policy on Zero Tolerance (a-1), definitions of sexual abuse, sexual acts, sexual behaviors and sexual incidents, the inmates' right to be free from retaliation (a-4), staff's responsibility and methods on how to prevent, detect and respond to sexual harassment/abuse (a-2,7), First Responder duties, the coordinated response plan, notice that all employees are mandated reporters (a-10), avoiding inappropriate staff and inmate relationships, use of the preponderance of evidence standard, effective communication and professionalism when communicating with lesbian, gay, bisexual, transgender, intersex or gender nonconforming inmates (a-9), re-emphasis on searches

relevant to LGBTI inmates and unique differences, maintaining confidentiality when searching and avoiding stereotypes, identification of warnings signs of sexual abuse and harassment (a-6), and a review of dynamics of sexual abuse and sexual harassment in confinement (a-5). It also addresses the gender of inmates and how sexual abuse and sexual harassment can manifest itself differently among the different genders. Training documents reviewed indicate all staff with inmate contact has been trained. New employees sign a Basic Training Acknowledgement that they understood the training they received. In service training must be passed by taking a quiz demonstrating understanding of the training. All staff interviews confirmed compliance with the standard and a sound understanding of the reasons for the requirements and their role in preventing, detecting and responding to PREA allegations. Policy supports that training tailored to the gender will be provided in the event that a staff member transfers from a male to female or female to male institution. No staff had transferred from the female facility to this facility in the past twelve months. All staff is trained in the same requirements that mental and medical staff is required to receive. The training plan for training year 2019 demonstrates that PREA Refresher is a required course for all staff to take; staff is given two hours of training credit for completion (c). The interview with the training officer supported a coordinated plan to ensure that all staff is trained within the required training calendar year. He readily provided documentation to the auditor that all staff have received the training in the past 12 months.

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

### **115.32 (a)**

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

### **115.32 (b)**

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

### **115.32 (c)**

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

## **Auditor Overall Compliance Determination**

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

(a) This standard requires that the agency ensure that all volunteers and contractors who have contact with inmates have been trained on their responsibilities to prevent, detect and respond to sexual harassment and sexual abuse. 216.13 Training and Staff Development states that volunteers and contractors who have contact with inmates shall be trained on their responsibilities to prevent, detect, and respond to sexual abuse/sexual harassment policies and procedures. Contractual staff consists of those providing medical and mental health services, in addition to staff that provide the treatment programming for CRA. The Auditor interviewed five contractual staff; all demonstrated a sound understanding of their requirements to prevent, detect and respond to sexual abuse and sexual harassment.

(b) The agency is required to ensure that the level and type of training provided to volunteers and contractors is based on the services they provide and the level of contact they have requiring at a minimum that they be notified of the zero-tolerance policy and informed on how to report. 216.13 Training and Staff Development specifies that the level and type of training provided shall be based on the services provided and level of contact. . It was reported and demonstrated by the interview that they received the same training provided to full time Agency staff. The Training Officer provided documentation demonstrating that all Well path, Inc. staff have been trained. Volunteers complete an application, a national criminal background check is completed and an orientation is conducted. They receive a copy of the Volunteer handbook, which includes a section on their role in preventing, detecting and reporting sexual abuse and sexual harassment. PREA language has also been incorporated into the volunteer recertification quiz, ensuring that they understand the training required annually. All persons visiting (even though under escort at all times) are provided information regarding the law and requirements of the standards relevant to their visit (including a duty to report). A form is signed acknowledging this information before entering the facility (including the auditor).

(c) Documentation shall be maintained of this training/information noting that they understand it. 216.13 Training and Staff Development states continues regarding volunteers and contractors that appropriate documentation shall be maintained indicating they have received the training. They sign a contractor/volunteer acknowledgment form which again address five aspects of PREA: the law; Department's zero tolerance for all forms of sexual abuse outlined in 103 519; law specific to incarcerated persons forbids sexual contact of any type and may result in discipline up to and including termination/removal and referral for prosecution; definitions of sexual misconduct is provided, and the statement that they have a duty to report to the Shift commander. Volunteers and contractors sign acknowledging they have been informed and understand each item. The auditor was provided access to all volunteer files. Five files were randomly pulled. All verified that volunteers have a criminal national background check at least yearly, and have to re-certify by taking a quiz to remain as an active volunteer annually. No volunteers were available at the time the auditor was present at the facility to interview.

The Auditor finds that the facility exceeds the requirement of the standard in that volunteers are re-certified annually and contractual full time staff receives the same training as provided to facility staff. In addition, the facility ensures that all staff, even when escorted, is informed of the law prior to entering the secure area of the facility.

## **Standard 115.33: Inmate education**

### **115.33 (a)**

- During intake, do inmates receive information explaining the agency's zero-tolerance policy regarding sexual abuse and sexual harassment? ☒ Yes ☐ No

- During intake, do inmates receive information explaining how to report incidents or suspicions of sexual abuse or sexual harassment? ☒ Yes ☐ No

#### 115.33 (b)

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

#### 115.33 (c)

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

#### 115.33 (d)

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

#### 115.33 (e)

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

### 115.33 (f)

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

#### Auditor Overall Compliance Determination

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

This standard has the following requirements: (a) During the intake process, inmates shall receive information explaining the agency's zero-tolerance policy regarding sexual abuse and sexual harassment and how to report incidents or suspicions of sexual abuse or sexual harassment. (b) Within 30 days of intake, the agency shall provide comprehensive education to inmates either in person or through video regarding their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents, and regarding agency policies and procedures for responding to such incidents. (c) Current inmates who have not received such education shall be educated within one year of the effective date of the PREA standards, and shall receive education upon transfer to a different facility to the extent that the policies and procedures of the inmate's new facility differ from those of the previous facility. (d) The agency shall provide inmate education in formats accessible to all inmates, including those who are limited English proficient, deaf, visually impaired, or otherwise disabled, as well as to inmates who have limited reading skills. (e) The agency shall maintain documentation of inmate participation in these education sessions. (f) In addition to providing such education, the agency shall ensure that key information is continuously and readily available or visible to inmates through posters, inmate handbooks, or other written formats.

Policy 401 Booking & Admissions as well as 519 SHARPP address the requirements of this standard. At intake, the specific needs of the inmate are identified to ensure appropriate communication is provided. This is demonstrated on the intake form. The Inmate Orientation Handbook, which is provided within 24 hours of arrival (typically during booking), thoroughly reviews the information needed to educate the inmate population on how to prevent as well as report abuse, harassment, and retaliation. It is available in Spanish as well. 103 Booking and Admission requires that when necessary, other non-English speaking inmates shall receive translation into their own language via telephonic interpreter service. It further states when a literacy problem exists, a staff member will assist the inmate in understanding the information. (e). The Inmate Handbook includes the Department Duty Station phone number and information that it is not monitored. Receipt of the handbook is documented (a). Posters educating inmates on PREA were visible throughout the facility; "Did You Know . . ." facts sheets are provided to and readily available to the inmate population. This agency started educating inmates regarding PREA several years ago. Additional information is available in the inmate library. To be

more diligent, this facility ensured that all key phone numbers (hotline and Boston Area Rape Crisis Center) are stenciled on the wall by the phones and are highly visible. All inmate interviews support compliance as well (f). Orientation is conducted within 30 days. Participation is documented and additional information is provided to the inmate population through a video and presentation by staff (b). Review of fifteen randomly requested intake screens and orientation forms for the month of February 2019 support compliance with this standard as well. 103 Booking and Admission requires that inmates transferred from other institutions shall receive orientation to the new facility. This agency has been actively educating inmates regarding PREA requirements since 2012; therefore all inmates have received education and receive it upon transfer to a new facility as demonstrated by observations and reviews of the process at this facility as well as other facilities within this agency (c).

Based on review of the policy, interviews with the booking officer, review of randomly requested documentation regarding intake and orientation and interviews with the inmates, the auditor finds the standard to be compliant.

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

### **115.34 (a)**

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

### **115.34 (b)**

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

### **115.34 (c)**

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

#### 115.34 (d)

- Auditor is not required to audit this provision.

#### Auditor Overall Compliance Determination

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

This standard has the following requirements: (a) In addition to the general training provided to all employees pursuant to § 115.31, the agency shall ensure that, to the extent the agency itself conducts sexual abuse investigations, its investigators have received training in conducting such investigations in confinement settings. (b) Specialized training shall include techniques for interviewing sexual abuse 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. (c) The agency shall maintain documentation that agency investigators have completed the required specialized training in conducting sexual abuse investigations. (d) Any State entity or Department of Justice component that investigates sexual abuse in confinement settings shall provide such training to its agents and investigators who conduct such investigations.

519 SHARPP address the requirements of this standard requiring the Division of Staff Development and the PREA Coordinator provide ongoing training to ensure that all Department employees and contractors are educated regarding their responsibilities to prevent and report incidents of sexual harassment/sexually abusive behavior. Investigators are to receive specialized training to investigate sexual abuse allegations. The training curriculum addressed the following topics over a course of three days: Introduction to Sexual Assault Investigation; Defining PREA; Evidence Protocol; Interviewing, including Miranda and Garrity; Investigative Outcomes Documentation; and Post Allegation responsibilities (b). Staff in this state is compelled to tell the truth or receive disciplinary action up to termination. The criterion to establish a substantiated finding is a preponderance of evidence, as confirmed by the policy, training curriculum, and interview with the investigators. Two to three staff are assigned to conduct PREA investigations at this facility; however, all investigators have received the specialized training. Investigators from the Office of Investigative Services are also certified in the training, as confirmed by the interview with the Deputy Commissioner. Documentation of completed training support compliance as well as interviews with the investigators and review of investigations. The Department has a Memorandum of Understanding (MOU) with the Massachusetts State Police regarding the Prison Rape Elimination Act ("PREA") supporting that the Department will provide training on techniques associated with investigating sexual assault in confinement settings (d).



However, it is exceptionally rare that an investigation involving sexual abuse will require the intervention of the State Police.

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

### **115.35 (a)**

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

### **115.35 (b)**

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

### **115.35 (c)**

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

### **115.35 (d)**

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

## **Auditor Overall Compliance Determination**

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



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

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

(a) The agency shall ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in:

(1) How to detect and assess signs of sexual abuse and sexual harassment;

(2) How to preserve physical evidence of sexual abuse;

(3) How to respond effectively and professionally to victims of sexual abuse and sexual harassment;

and (4) How and to whom to report allegations or suspicions of sexual abuse and sexual harassment.

(b) If medical staff employed by the agency conduct forensic examinations, such medical staff shall receive the appropriate training to conduct such examinations.

(c) The agency shall maintain documentation that medical and mental health practitioners have received the training referenced in this standard either from the agency or elsewhere.

(d) Medical and mental health care practitioners shall also receive the training mandated for employees under § 115.31 or for contractors and volunteers under § 115.32, depending upon the practitioner's status at the agency.

216.13 Training and Staff Development and the training curriculum address the requirements of this standard. The training curriculum addresses provided to all staff also reviews the following: the required topics as well. Forensic exams are not conducted at the facility (b). Medical and mental health staff is contracted through Wellpath, Inc. Review of documentation indicates that training provided to all staff also addresses medical and mental health staffs' role in detecting signs of sexual abuse and harassment (a-1), preserving evidence (a-2), how to respond effectively to victims of sexual abuse (a-3) and when and how to report allegations (a-4) (d). Training is provided by the facility staff. Interview with the medical and mental health staff demonstrate they have been trained and are knowledgeable regarding their role with prevention, detection and responding to sexual abuse and harassment allegations. When the Training Officer was interviewed, he supported that medical and mental health staff receive the same training as other staff, this is coordinated between his office and the Health Administrative, and he readily provided documentation showing that all medical and mental health staff have received this training (c).

Review of the policy, extensive review of the training curriculum, interviews with the medical and mental health staff as well as the interview and readily available document provided by the training officer all provide sufficient evidence for the Auditor to support a finding of compliance with the requirements of this standard.

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

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

**115.41 (a)**

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

**115.41 (b)**

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

**115.41 (c)**

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

**115.41 (d)**

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (1) Whether the inmate has a mental, physical, or developmental disability? ☒ Yes ☐ No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (2) The age of the inmate? ☒ Yes ☐ No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (3) The physical build of the inmate? ☒ Yes ☐ No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (4) Whether the inmate has previously been incarcerated?  
☒ Yes ☐ No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (5) Whether the inmate's criminal history is exclusively nonviolent?  
☒ Yes ☐ No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (6) Whether the inmate has prior convictions for sex offenses against an adult or child? ☒ Yes ☐ No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (7) Whether the inmate is or is perceived to be gay, lesbian,

bisexual, transgender, intersex, or gender nonconforming (the facility affirmatively asks the inmate about his/her sexual orientation and gender identity AND makes a subjective determination based on the screener's perception whether the inmate is gender non-conforming or otherwise may be perceived to be LGBTI)? ☒ Yes ☐ No

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (8) Whether the inmate has previously experienced sexual victimization? ☒ Yes ☐ No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (9) The inmate's own perception of vulnerability? ☒ Yes ☐ No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (10) Whether the inmate is detained solely for civil immigration purposes? ☐ Yes ☐ No This agency does not house inmates detained solely for civil immigration purposes.

#### 115.41 (e)

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

#### 115.41 (f)

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

#### 115.41 (g)

- Does the facility reassess an inmate's risk level when warranted due to a: Referral? ☒ Yes ☐ No
- Does the facility reassess an inmate's risk level when warranted due to a: Request? ☒ Yes ☐ No

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

#### 115.41 (h)

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

#### 115.41 (i)

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

### Auditor Overall Compliance Determination

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

This standard has the following requirements: (a) All inmates shall be assessed during an intake screening and upon transfer to another facility for their risk of being sexually abused by other inmates or sexually abusive toward other inmates. (b) Intake screening shall ordinarily take place within 72 hours of arrival at the facility. (c) Such assessments shall be conducted using an objective screening instrument. (d) The intake screening shall consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (1) Whether the inmate has a mental, physical, or developmental disability; (2) The age of the inmate; (3) The physical build of the inmate; (4) Whether the inmate has previously been incarcerated; (5) Whether the inmate's criminal history is exclusively nonviolent; (6) Whether the inmate has prior convictions for sex offenses against an adult or child; (7) Whether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming; (8) Whether the inmate has previously experienced sexual victimization; (9) The inmate's own perception of vulnerability; and (10) Whether the inmate is detained solely for civil immigration purposes. (e) The initial screening shall consider prior acts of sexual abuse, prior convictions for violent offenses, and history of prior institutional violence or sexual abuse, as known to the agency, in assessing inmates for risk of being sexually abusive. (f) Within a set time period, not to exceed 30 days from the inmate's arrival at the facility, the facility will reassess the inmate's risk of victimization or abusiveness based upon any additional, relevant information received by the facility

since the intake screening. (g) An inmate's risk level shall be reassessed when warranted due to a referral, request, incident of sexual abuse, or receipt of additional information that bears on the inmate's risk of sexual victimization or abusiveness. (h) Inmates may not be disciplined for refusing to answer, or for not disclosing complete information in response to, questions asked pursuant to paragraphs (d)(1), (d)(7), (d)(8), or (d)(9) of this section. (i) The agency shall implement appropriate controls on the dissemination within the facility of responses to questions asked pursuant to this standard in order to ensure that sensitive information is not exploited to the inmate's detriment by staff or other inmates.

519 SHARPP, 401 Booking & Admissions and 650 Mental Health Services address all the requirements of this standard. 519 SHARPP states that all inmates are screened upon arrival within 24 hours by a qualified medical professional for a history of and risk for sexual victimization and sexual abusiveness. (a,b). 650 Mental Health Services affirms that an objective screening tool will be used (c). 650 Mental Health Services further states that to assess for victimization, the following information is considered: (1) Whether the inmate has a mental, physical, or developmental disability; (2) The age of the inmate; (3) The physical build of the inmate; (4) Whether the inmate has previously been incarcerated; (5) Whether the inmate's criminal history is exclusively nonviolent; (6) Whether the inmate has prior convictions for sex offenses against an adult or child; (7) Whether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming; (8) Whether the inmate has previously experienced sexual victimization; (9) The inmate's own perception of vulnerability; and (10) Whether the inmate is detained solely for civil immigration purposes (no inmates are detained solely for civil immigration purposes at this facility) (d).

The initial screening does consider prior acts of sexual abuse, prior convictions for violent offenses, and history of prior institutional violence or sexual abuse, as known to the agency, in assessing inmates for risk of being sexually abusive (e).

The Booking staff member completes a portion of the assessment and medical staff/mental health staff completes the remainder of screen. Inmates are verbally asked if they perceive themselves as gay, lesbian, bisexual, transgender, intersex, or gender nonconforming by mental health staff. Correctional Program Officers complete the 30-day review and any warranted reassessments (f). A post incident checklist has been developed; noting this referral to ensure this screen is completed (g). Staff and inmate interviews confirm that the interview is conducted in a private setting. The facility reports that the screen has been completed on all current inmates. Inmates are not disciplined for refusing to answer (as determined by policy and staff/inmate interviews). Randomly requested inmates confirmed they do not believe they would have been disciplined for not answering (h). Information is maintained in a computerized format that affords the control of dissemination to only those staff needing to review the information. It further offers the ability to receive notifications if an attempt is made to place a predator and victim in the same room (j).

Documentation reviewed which demonstrates compliance includes 72-hour Housing Risk Assessments conducted immediately upon arrival (within 24 hours according to policy), exceeding the standard, 30 day Housing Risk Assessments, and reassessments, when warranted, referred or requested. The risk screening includes the ten areas and is objective in that there are yes and no responses that determine what status an inmate is considered. The screening instrument includes 15 specific questions and

criteria to determine vulnerability, and five questions to determine predatory behavior. It includes the ability to make notation, override the decision and provide the rationale. Staff who conduct the risk screen have received individualized training. The PREA Manager reviews the screens to ensure consistency in the assessment and maintains active communication with the staff that completes these screens.

Compliance has been determined by staff interviews, inmate interviews, and review of randomly selected risk assessments for the month of February – fifteen total. Each example demonstrated compliance with the standard. Exceeds standards based on immediate screening process and the database designed to provide consistency and a checks and balance on the process, further preventing the opportunity for sexual abuse or harassment.

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

### **115.42 (a)**

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

### **115.42 (b)**

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

### **115.42 (c)**

- When deciding whether to assign a transgender or intersex inmate to a facility for male or female inmates, does the agency consider on a case-by-case basis whether a placement would ensure the inmate's health and safety, and whether a placement would present management or security problems (NOTE: if an agency by policy or practice assigns inmates to a male or

female facility on the basis of anatomy alone, that agency is not in compliance with this standard)? ☒ Yes ☐ No

- When making housing or other program assignments for transgender or intersex inmates, does the agency consider on a case-by-case basis whether a placement would ensure the inmate's health and safety, and whether a placement would present management or security problems? ☒ Yes ☐ No

#### 115.42 (d)

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

#### 115.42 (e)

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

#### 115.42 (f)

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

#### 115.42 (g)

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

#### Auditor Overall Compliance Determination

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

This standard has the following requirements: (a) The agency shall use information from the risk screening required by § 115.41 to inform housing, bed, work, education, and program assignments with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive. (b) The agency shall make individualized determinations about how to ensure the safety of each inmate. (c) In deciding whether to assign a transgender or intersex inmate to a facility for male or female inmates, and in making other housing and programming assignments, the agency shall consider on a case-by-case basis whether a placement would ensure the inmate's health and safety, and whether the placement would present management or security problems. (d) Placement and programming assignments for each transgender or intersex inmate shall be reassessed at least twice each year to review any threats to safety experienced by the inmate. (e) A transgender or intersex inmate's own view with respect to his or her own safety shall be given serious consideration. (f) Transgender and intersex inmates shall be given the opportunity to shower separately from other inmates. (g) The agency shall not place lesbian, gay, bisexual, transgender, or intersex inmates in dedicated facilities, units, or wings solely on the basis of such identification or status, unless such placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting such inmates.

Several policies address the requirements of this standard: 519 SHARPP, 420 Classification, 652 Identification, Treatment and Correctional Management of Inmates with GD, 650 Mental Health Services, and 750 Hygiene Standards.

652 Identification, Treatment and Correctional Management of Inmates with GD indicate that an assessment will be completed at the time of commitment. It will inform housing, work, education and program assignments will focus on individual safety. Decision are made on a case by case basis including the inmate's own view with respect to his or her own safety, which is given serious consideration (e). 519 SHARPP states that the Department shall utilize an internal risk housing tool to assess inmates for their risk of vulnerability or predatory behavior. 750 Hygiene Standards affords that inmates identified as transgender are given an opportunity to shower separately. With the new Crime Bill, inmates who identify as gender non-conforming and those diagnosed as gender dysphoria can also indicate what pronoun they wish to be address by and which gender of staff they want to be searched by. New inmate indication cards are being issued which will indicate the gender of the inmate, as identified by the inmate.

Placement of transgender inmates in a male or female facility occurs at the reception facility (Cedar Junction or Massachusetts Correctional Institution – Framingham) in accordance with how the court defines their gender. Policy indicates that assessments will inform staff on a case by case basis on



housing, work, education and program assignments upon arrival, including placement in a male or female facility.

Staff is dedicated full time to making housing and programing decisions, in additional to a housing assignment committee. Housing assignment staff and program staffs have access to risk assessment information, as well as other relevant information to make individualized determinations on appropriate housing, education and work assignments to enhance safety. This facility/agency is very proactive regarding decisions about placement of housing and job assignments, using more information than required to make these decisions.

Appropriate correctional staff reviews transgender/intersex classification twice annually. Transgender/intersex views are given serious consideration in regards to housing and jobs. Inmate interviews confirmed that they have been given the opportunity to identify their pronoun and preference for gender of staff to search them. Processes are in place to provide separate shower times. This was confirmed by staff and inmate interviews.

Compliance of this standard was determined by observation, inmate/staff interviews and documentation. Massachusetts Department of Correction does not have a dedicated facility for transgender/intersex inmates.

## **Standard 115.43: Protective Custody**

### **115.43 (a)**

- Does the facility always refrain from placing inmates at high risk for sexual victimization in involuntary segregated housing unless an assessment of all available alternatives has been made, and a determination has been made that there is no available alternative means of separation from likely abusers? ☒ Yes ☐ No
- If a facility cannot conduct such an assessment immediately, does the facility hold the inmate in involuntary segregated housing for less than 24 hours while completing the assessment? ☒ Yes ☐ No

### **115.43 (b)**

- Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Programs to the extent possible? ☒ Yes ☐ No
- Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Privileges to the extent possible? ☒ Yes ☐ No
- Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Education to the extent possible? ☒ Yes ☐ No
- Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Work opportunities to the extent possible? ☒ Yes ☐ No

- If the facility restricts access to programs, privileges, education, or work opportunities, does the facility document: The opportunities that have been limited? ☒ Yes ☐ No
- If the facility restricts access to programs, privileges, education, or work opportunities, does the facility document: The duration of the limitation? ☒ Yes ☐ No
- If the facility restricts access to programs, privileges, education, or work opportunities, does the facility document: The reasons for such limitations? ☒ Yes ☐ No

#### 115.43 (c)

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

#### 115.43 (d)

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

#### 115.43 (e)

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

#### Auditor Overall Compliance Determination

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

This standard has the following requirements: (a) Inmates at high risk for sexual victimization shall not be placed in involuntary segregated housing unless an assessment of all available alternatives has been made, and a determination has been made that there is no available alternative means of separation from likely abusers. If a facility cannot conduct such an assessment immediately, the facility may hold the inmate in involuntary segregated housing for less than 24 hours while completing the

assessment. (b) Inmates placed in segregated housing for this purpose shall have access to programs, privileges, education, and work opportunities to the extent possible. If the facility restricts access to programs, privileges, education, or work opportunities, the facility shall document: (1) The opportunities that have been limited; (2) The duration of the limitation; and (3) The reasons for such limitations. (c) The facility shall assign such inmates to involuntary segregated housing only until an alternative means of separation from likely abusers can be arranged, and such an assignment shall not ordinarily exceed a period of 30 days. (d) If an involuntary segregated housing assignment is made pursuant to paragraph (a) of this section, the facility shall clearly document: (1) The basis for the facility's concern for the inmate's safety; and (2) The reason why no alternative means of separation can be arranged. (e) Every 30 days, the facility shall afford each such inmate a review to determine whether there is a continuing need for separation from the general population.

519 SHARPP indicates that placement of an inmate at high risk for sexual victimization in an administrative restrictive setting will only occur for the first 24 hours. The requirements for subpart (b) do not apply. Review of records as well as interviews with staff in the restrictive housing units support compliance with the practice/policy. In addition, there are several housing unit options available for separating inmates at risk without placing them in restrictive housing to address immediate needs such as placement in another housing unit, the medical unit or transfer to another facility. Review of the completed investigations confirmed this process. It has been reported that no high-risk victim has had to be placed in restrictive housing for their protection in the past 12 months.

## REPORTING

### Standard 115.51: Inmate reporting

#### 115.51 (a)

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

#### 115.51 (b)

- Does the agency also provide at least one way for inmates to report sexual abuse or sexual harassment to a public or private entity or office that is not part of the agency? ☒ Yes ☐ No
- Is that private entity or office able to receive and immediately forward inmate reports of sexual abuse and sexual harassment to agency officials? ☒ Yes ☐ No

- Does that private entity or office allow the inmate to remain anonymous upon request?  
☒ Yes ☐ No
- Are inmates detained solely for civil immigration purposes provided information on how to contact relevant consular officials and relevant officials at the Department of Homeland Security? ☒ Yes ☐ No This agency does not house inmates detained solely for civil immigration purposes.

#### 115.51 (c)

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

#### 115.51 (d)

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

#### Auditor Overall Compliance Determination

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

The standard has the following requirements: (a) The agency shall provide multiple internal ways for inmates to privately report sexual abuse and sexual harassment, retaliation by other inmates or staff for reporting sexual abuse and sexual harassment, and staff neglect or violation of responsibilities that may have contributed to such incidents. (b) The agency shall also provide at least one way for inmates to report abuse or harassment to a public or private entity or office that is not part of the agency, and that is able to receive and immediately forward inmate reports of sexual abuse and sexual harassment to agency officials, allowing the inmate to remain anonymous upon request. Inmates detained solely for civil immigration purposes shall be provided information on how to contact relevant consular officials and relevant officials at the Department of Homeland Security. (c) Staff shall accept reports made verbally, in writing, anonymously, and from third parties and shall promptly document any verbal reports. (d) The agency shall provide a method for staff to privately report sexual abuse and sexual harassment of inmates.

519 SHARPP addresses the requirements of this standard. It states the following: The Department shall maintain multiple internal mechanisms for privately reporting sexual harassment/abuse retaliation

for retaliation by other inmates or staff for reporting sexual abuse and sexual harassment, and staff neglect or violation of responsibilities that may have contributed to such incidents (a). Inmates are afforded “privileged” numbers in which they can privately report to them – the list includes attorney, consulate office or diplomat, pre-authorized clergy, pre-authorized psychologist/social worker/mental health professional who can report on their behalf (b). 519 SHARPP further states that Staff shall accept reports made verbally, in writing, anonymously, and from third parties and shall promptly document any verbal reports (c). 519 SHARPP also indicates that staff will/can write a confidential incident report to the Superintendent (d).

The Inmate Orientation Handbook provides detailed information to the inmate population regarding multiple avenues for reporting sexual abuse/harassment. This includes that inmates can contact staff, file a grievance, have family report on their behalf, regularly scheduled staff access hours and a hotline that goes to the Inner Perimeter Security (IPS) office, or a hotline that goes to the department’s Duty Station (central office). A pin number is not needed to make this call. It includes information to the inmates that for the “privileged numbers” (attorney, clergy, mental health professional) calls are not monitored, but that an inmate PIN number is needed.

The phone number for the PREA hotline (answered in Central Office) is stenciled on the wall by the inmate housing unit phones. The auditor was able to get through to the person monitoring the phones when testing the number from an inmate phone. This phone number and the phone number for BARCC are now on the new inmate identification cards being re issued department-wide.

The Massachusetts State Police is the agency that will accept reports regarding allegations of sexual abuse or sexual harassment, including anonymously, and will forward to the Agency immediately. The auditor was provided documentation supporting this agreement.

Policy, interviews with staff and review of the completed investigations support compliance that staff will accept verbal, written, anonymous and third party reports of sexual abuse or harassment and taking immediate action. A review of grievances for the previous 12 months supported that grievances filed for sexual harassment, as well as abuse were forwarded to the investigators for investigation.

Inmate interviews confirmed that the population has been educated on the multiple reporting mechanisms available to them, including verbal reports, anonymous reports and third-party reports. Staff incident reports are marked confidential and go directly to the superintendent. Staff interviews confirmed they believed this system afforded them a private way to report incidents. They can also report directly to the duty station hotline or employee assistance program privately.

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

### **115.52 (a)**

- Is the agency exempt from this standard? NOTE: The agency is exempt ONLY if it does not have administrative procedures to address inmate grievances regarding sexual abuse. This does not mean the agency is exempt simply because an inmate does not have to or is not ordinarily expected to submit a grievance to report sexual abuse. This means that as a matter of

explicit policy, the agency does not have an administrative remedies process to address sexual abuse. ☐ Yes ☒ No ☐ NA

#### 115.52 (b)

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

#### 115.52 (c)

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

#### 115.52 (d)

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

#### 115.52 (e)

- Are third parties, including fellow inmates, staff members, family members, attorneys, and outside advocates, permitted to assist inmates in filing requests for administrative remedies relating to allegations of sexual abuse? (N/A if agency is exempt from this standard.) ☒ Yes ☐ No ☐ NA

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

#### 115.52 (f)

- Has the agency established procedures for the filing of an emergency grievance alleging that an inmate is subject to a substantial risk of imminent sexual abuse? (N/A if agency is exempt from this standard.) ☒ Yes ☐ No ☐ NA
- After receiving an emergency grievance alleging an inmate is subject to a substantial risk of imminent sexual abuse, does the agency immediately forward the grievance (or any portion thereof that alleges the substantial risk of imminent sexual abuse) to a level of review at which immediate corrective action may be taken? (N/A if agency is exempt from this standard.) ☒ Yes ☐ No ☐ NA
- After receiving an emergency grievance described above, does the agency provide an initial response within 48 hours? (N/A if agency is exempt from this standard.) ☒ Yes ☐ No ☐ NA
- After receiving an emergency grievance described above, does the agency issue a final agency decision within 5 calendar days? (N/A if agency is exempt from this standard.) ☒ Yes ☐ No ☐ NA
- Does the initial response and final agency decision document the agency's determination whether the inmate is in substantial risk of imminent sexual abuse? (N/A if agency is exempt from this standard.) ☒ Yes ☐ No ☐ NA
- Does the initial response document the agency's action(s) taken in response to the emergency grievance? (N/A if agency is exempt from this standard.) ☒ Yes ☐ No ☐ NA
- Does the agency's final decision document the agency's action(s) taken in response to the emergency grievance? (N/A if agency is exempt from this standard.) ☒ Yes ☐ No ☐ NA

#### 115.52 (g)

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

#### Auditor Overall Compliance Determination

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

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

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

The standard has the following requirements: (a) An agency shall be exempt from this standard if it does not have administrative procedures to address inmate grievances regarding sexual abuse.

(b)(1) The agency shall not impose a time limit on when an inmate may submit a grievance regarding an allegation of sexual abuse.

(2) The agency may apply otherwise-applicable time limits to any portion of a grievance that does not allege an incident of sexual abuse.

(3) The agency shall not require an inmate to use any informal grievance process, or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse.

(4) Nothing in this section shall restrict the agency's ability to defend against an inmate lawsuit on the ground that the applicable statute of limitations has expired.

(c) The agency shall ensure that—

(1) An inmate who alleges sexual abuse may submit a grievance without submitting it to a staff member who is the subject of the complaint, and

(2) Such grievance is not referred to a staff member who is the subject of the complaint.

(d)(1) The agency shall issue a final agency decision on the merits of any portion of a grievance alleging sexual abuse within 90 days of the initial filing of the grievance.

(2) Computation of the 90-day time period shall not include time consumed by inmates in preparing any administrative appeal.

(3) The agency may claim an extension of time to respond, of up to 70 days, if the normal time period for response is insufficient to make an appropriate decision. The agency shall notify the inmate in writing of any such extension and provide a date by which a decision will be made.

(4) At any level of the administrative process, including the final level, if the inmate does not receive a response within the time allotted for reply, including any properly noticed extension, the inmate may consider the absence of a response to be a denial at that level.

(e)(1) Third parties, including fellow inmates, staff members, family members, attorneys, and outside advocates, shall be permitted to assist inmates in filing requests for administrative remedies relating to allegations of sexual abuse, and shall also be permitted to file such requests on behalf of inmates.

(2) If a third party files such a request on behalf of an inmate, the facility may require as a condition of processing the request that the alleged victim agree to have the request filed on his or her behalf, and may also require the alleged victim to personally pursue any subsequent steps in the administrative remedy process.

(3) If the inmate declines to have the request processed on his or her behalf, the agency shall document the inmate's decision.

(f)(1) The agency shall establish procedures for the filing of an emergency grievance alleging that an inmate is subject to a substantial risk of imminent sexual abuse.

(2) After receiving an emergency grievance alleging an inmate is subject to a substantial risk of imminent sexual abuse, the agency shall immediately forward the grievance (or any portion thereof that alleges the substantial risk of imminent sexual abuse) to a level of review at which immediate corrective action may be taken, shall provide an initial response within 48 hours, and shall issue a final agency decision within 5 calendar days. The initial response and final agency decision shall document the



agency's determination whether the inmate is in substantial risk of imminent sexual abuse and the action taken in response to the emergency grievance.

(g) The agency may discipline an inmate for filing a grievance related to alleged sexual abuse only where the agency demonstrates that the inmate filed the grievance in bad faith.

CMR 491 Inmate Grievances demonstrates compliance with the requirements of this standard. The agency is not exempt from this standard (a). A section of this policy is dedicated to sexual abuse grievances (b-2). It provides for the following: time limits do not apply to grievances alleging sexual abuse (b-1); inmates are not required to file an informal grievance regarding sexual abuse (b-3); inmates are not required to submit the grievance to a staff person who is the subject of the grievance (c-1); employees named in the grievance shall not participate in any capacity in the processing, investigation, or decision of the grievance (c-2); allegations of sexual abuse by third parties (inmates, staff, family, attorney, outside advocate) are authorized, the inmate will be contacted to ensure he/she agrees with the grievance and this will be documented (e); the agency shall issue a final agency decision on the merits of any portion of a grievance alleging sexual abuse within 90 days of the initial filing of the grievance (30 days for the grievance, up to 60 days for the appeal for responding only (d); emergency grievances alleging imminent risk of sexual abuse shall be responded to in 48 hours (f) Inmates who misuse the grievance process by knowingly submitting false documents, intentionally and in bad faith misrepresenting or omitting material information or utilizing threatening or abusive language or language that otherwise constitutes a violation of Inmate discipline are subject to suspension of the grievance process and/or disciplinary action (g).

Grievance forms were observed in the housing units. Randomly asked inmates confirmed that grievance forms are readily available to the inmate population. Both inmate and staff interviews indicate that grievances are placed in a locked box providing confidentiality should an inmate want to use that avenue. In the past year, the facility implemented an informal resolution process that can be used before the formal grievance process; it is not required for sexual abuse grievances as noted above. The Grievance coordinator was interviewed regarding the process for any grievance that contains allegations of sexual abuse and sexual harassment. She indicated they are immediately forwarded to the shift commander for proper handling.

Based on the observations, interviews with random inmates, and the grievance coordinator, and review of the grievance log for 2018 to present and policy, the auditor finds sufficient evidence to support a finding of compliance.

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

### **115.53 (a)**

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

- Does the facility enable reasonable communication between inmates and these organizations and agencies, in as confidential a manner as possible? ☒ Yes ☐ No

#### 115.53 (b)

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

#### 115.53 (c)

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

#### Auditor Overall Compliance Determination

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

This standard has the following requirements: (a) The facility shall provide inmates with access to outside victim advocates for emotional support services related to sexual abuse by giving inmates mailing addresses and telephone numbers, including toll-free hotline numbers where available, of local, State, or national victim advocacy or rape crisis organizations, and, for persons detained solely for civil immigration purposes, immigrant services agencies. The facility shall enable reasonable communication between inmates and these organizations and agencies, in as confidential a manner as possible. (b) The facility shall inform inmates, prior to giving them access, of the extent to which such communications will be monitored and the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws. (c) The agency shall maintain or attempt to enter into memoranda of understanding or other agreements with community service providers that are able to provide inmates with confidential emotional support services related to sexual abuse. The agency shall maintain copies of agreements or documentation showing attempts to enter into such agreements.

A contract has been signed with the Boston Area Rape Crisis Center (BARCC). A toll-free hotline is available to all inmates from 9:00am to 9:00pm, as well as an address. A phone tree system is used to route the calls to the next available counselor. Services can be provided for English, Spanish and deaf (TTY) inmates. This information is noted in the recorded introductory statement (a, c).

These services are provided to all Massachusetts Department of Correction prisons. Inmates are informed that the phone number is toll free and will not be monitored. They are also informed that this is not an avenue in which to file complaints as the counselors are not allowed to report on their behalf in accordance with Massachusetts Law Chapter 233 and Section 20J unless it involves someone under 18 years old, older than 60, disabled, or they express they are a danger to themselves. Staff who work for this agency are required to attend and pass 40 hours of training, pass a background check and obtain certification through the state of Massachusetts. Although there is an address, the mail is addressed differently as the staff cannot ensure confidentiality. Appropriate responses are sent to the inmate in a manner, which will not violate confidentiality (b).

Telephones at the facility are available to inmates in a reasonable number and location. There are seven rolling phones available for observation cells and restrictive housing. There are over 100 phones within the housing unit – medium custody, and 46 in minimum custody. . They are appropriately spaced to afford the inmate the ability to maintain a private conversation. Several inmates were informally questioned about privacy and felt they were able to conduct private conversations on the phone. Inmates in restrictive housing are allowed to make a “lawyer call” and staff will dial the number for them on a transportable phone. The process for handling mail does afford inmates in restrictive housing to send letters to BARCC confidentially as they are placed in a locked box passed around by the officer. However, as noted, only generic responses from BARCC can be shared in that manner.

Calls to BARCC or 2018 totaled 469 from this facility, 70 letters. This is a robust increase in activity from the previous year. The phone number is stenciled by the phone. All inmates’ interviews confirmed knowledge of the phone number and approximately 90% knew what it was for. Approximately half could confirm the type of service provided while the other indicated they didn’t know because they do not have a need for the service.

Two representatives of BARCC were interviewed on June 6, 2019 to discuss the services with the auditor. They reaffirmed the strong commitment this organization has to serving the inmate population with this need.

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

### **115.54 (a)**

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

### **Auditor Overall Compliance Determination**

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

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

The standard requires the following: The agency shall establish a method to receive third-party reports of sexual abuse and sexual harassment and shall distribute publicly information on how to report sexual abuse and sexual harassment on behalf of an inmate.

519 SHARPP address the requirements of this standard. Information is available on the Massachusetts DOC website for third-party reports and noted on PREA posters in the lobby and visiting rooms. Review of the investigations for the past 12 months indicates that one third party complaints have been received. The Auditor confirmed the ability to file a third party PREA allegation; it is available at <https://www.mass.gov/how-to/report-a-prea-allegation>.

## OFFICIAL RESPONSE FOLLOWING AN INMATE REPORT

### Standard 115.61: Staff and agency reporting duties

#### 115.61 (a)

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

#### 115.61 (b)

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

#### 115.61 (c)

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

#### 115.61 (d)

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

#### 115.61 (e)

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

#### Auditor Overall Compliance Determination

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

This standard has the following requirements: (a) The agency shall require all staff to report immediately and according to agency policy any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in a facility, whether or not it is part of the agency; retaliation against inmates or staff who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation. (b) Apart from reporting to designated supervisors or officials, staff shall not reveal any information related to a sexual abuse report to anyone other than to the extent necessary, as specified in agency policy, to make treatment, investigation, and other security and management decisions. (c) Unless otherwise precluded by Federal, State, or local law, medical and mental health practitioners shall be required to report sexual abuse pursuant to paragraph (a) of this section and to inform inmates of the practitioner's duty to report, and the limitations of confidentiality, at the initiation of services. (d) If the alleged victim is under the age of 18 or considered a vulnerable adult under a State or local vulnerable person's statute, the agency shall report the allegation to the designated State or local services agency under applicable mandatory reporting laws. (e) The facility shall report all allegations of sexual abuse and sexual harassment, including third-party and anonymous reports, to the facility's designated investigators.

519 SHARPP addresses the requirements of this standard, requiring staff to immediately report sexual abuse, sexual harassment, neglect and/or retaliation immediately to the shift commander and to maintain confidentiality (a, b). MPCH Sexual Assault/PREA Compliance policy (adopted by Wellpath, Inc.) requires the following of medical staff: "Apart from reporting to the designated supervisors and designated state or local service agencies, policy prohibits staff from revealing any information related to sexual abuse to anyone other than to the extent necessary to make treatment, investigation and other security management decisions. Healthcare staff will maintain confidentiality regarding the care and condition of the patient/inmate. However, healthcare professionals will immediately report to the Shift Commander any acts of violence or report any sexual activity between patients/inmates and with

staff. Mental and mental health practitioners are required to inform inmates at the initiation of services of their duty to report, and the limitations of confidentiality, unless otherwise protected by Federal, State, or local law (c). As stated, there are no inmates housed in this facility under the age of 18. The Elder Abuse <https://www.mass.gov/reporting-elder-abuse-neglect> states Elder Protective Services can only investigate cases of abuse where the person is age 60 and over and lives in the community (d).

Medical staff is aware of the requirement for reporting and limitations on confidentiality as indicated in the interview with them. This is addressed with the inmates at their facility intake interview. All staff interviews confirmed that staff understands the requirement to report immediately and to maintain confidentiality after reporting. All interviews confirmed that their report will go to the shift commander, then superintendent and investigator, immediately, via email. Interview with the superintendent, staff and investigators, as well as review of the investigations supported compliance with these requirements.

## Standard 115.62: Agency protection duties

### 115.62 (a)

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

### Auditor Overall Compliance Determination

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

The standard has the following requirement: When an agency learns that an inmate is subject to a substantial risk of imminent sexual abuse, it shall take immediate action to protect the inmate.

519 SHARPP 426 Conflicts, and MPCH 57.00 Sexual Assault Policy (adopted by Wellpath, Inc.) address the requirement of this standard. All staff interviews support knowledge of the requirement and how action is to be taken. Officers and line staff indicated they would have the cooperation of supervisory staff if they observed behavior they felt warranted the inmate's removal from the area to ascertain the situation. Protection is afforded through immediate separation from the area and then followed by a visit to the medical area for an assessment of the inmate's medical needs. The agency reports that this did not occur in the past twelve months. The auditors found no evidence to dispute this during the audit process.

## Standard 115.63: Reporting to other confinement facilities

### 115.63 (a)

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

#### 115.63 (b)

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

#### 115.63 (c)

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

#### 115.63 (d)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

This standard has the following requirements: (a) Upon receiving an allegation that an inmate was sexually abused while confined at another facility, the head of the facility that received the allegation shall notify the head of the facility or appropriate office of the agency where the alleged abuse occurred. (b) Such notification shall be provided as soon as possible, but no later than 72 hours after receiving the allegation. (c) The agency shall document that it has provided such notification. (d) The facility head or agency office that receives such notification shall ensure that the allegation is investigated in accordance with these standards.

519 SHARPP addresses this standard, indicating that reports received regarding incidents of sexual abuse/sexual harassment that occurred at other facilities/agencies will be forwarded from the superintendent of this facility to the superintendent of the facility where the incident occurred within in 72 hours (a, b). 519 SHARPP also requires that this will be documented (c). If the superintendent received information about an incident that occurred at his/her facility, he/she will ensure an investigation is initiated (d).



Documentation, a review of the database and superintendent and staff interviews support compliance. The PAQ indicated that one allegation was received from another facility regarding an incident that occurred at this facility two years prior to the report. One allegation was received at this facility that was forwarded to the facility where the incident occurred. Documentation provided showing that that it was sent from the superintendent to the superintendent the same day the information was received. A review of the investigations revealed that one report was received from another facility (appropriately handled); no reports were sent to another facility in the past twelve months.

## Standard 115.64: Staff first responder duties

### 115.64 (a)

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

### 115.64 (b)

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

### Auditor Overall Compliance Determination

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



This standard has the following requirements: (a) Upon learning of an allegation that an inmate was sexually abused, the first security staff member to respond to the report shall be required to: (1) Separate the alleged victim and abuser; (2) Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence; (3) 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; and (4) If the abuse occurred within a time period that still allows for the collection of physical evidence, ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating. (b) If the first staff responder is not a security staff member, the responder shall be required to request that the alleged victim not take any actions that could destroy physical evidence, and then notify security staff.

519 SHARPP addresses the requirements of this standard. This policy requires staff to separate, preserve the ability to collect evidence request the alleged victim and ensure the abuser not take action that would destroy potential evidence. The facility maintains PREA response kits to assist with ensuring proper evidence collection, at the facility until the inmate/victim is taken to the local hospital (a, b).

A review of the investigations supports compliance. Interviews with security staff and non-security staff support compliance as they are very knowledgeable regarding the requirements of the standard and the process established for ensuring proper actions.

## **Standard 115.65: Coordinated response**

### **115.65 (a)**

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

### **Auditor Overall Compliance Determination**

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

This standard has the following requirements: The facility shall develop a written institutional plan to coordinate actions taken in response to an incident of sexual abuse, among staff first responders, medical and mental health practitioners, investigators, and facility leadership.

519 SHARPP as well as the institutional procedural attachment demonstrate compliance with this standard. Staff interviews demonstrate that staff are knowledgeable regarding how to respond at this facility. As noted, PREA response kits are maintained to ensure that items are readily available to ensure evidence is properly collected. A checklist has been developed to assist in ensuring all requirements of the standards are addressed.

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

### 115.66 (a)

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

### 115.66 (b)

- Auditor is not required to audit this provision.

### Auditor Overall Compliance Determination

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

This standard has the following requirements: (a) Neither the agency nor any other governmental entity responsible for collective bargaining on the agency's behalf shall enter into or renew any collective bargaining agreement or other agreement that limits the agency's ability to remove alleged staff sexual abusers from contact with any inmates pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted. (b) Nothing in this standard shall restrict the entering into or renewal of agreements that govern: (1) The conduct of the disciplinary process, as long as such agreements are not inconsistent with the provisions of §§ 115.72 and 115.76; or (2) Whether a no-contact assignment that is imposed pending the outcome of an investigation shall be expunged from or retained in the staff member's personnel file following a determination that the allegation of sexual abuse is not substantiated.

230.06 Disciplines and Terminations addresses this standard in addition to 522 Internal Affairs Unit and 519 Sexually Abusive Behavior Prevention and Intervention. The following current contracts were reviewed and do not prohibit the facility from removing alleged staff: Massachusetts Correction Officer Federated Union, New England Benevolent Association Alliance, National Association of Government Employees (NAGE) and AFSCME/SEIU Local 509. The review of the completed investigations supported that staff was reassigned when warranted. Review of the policy, union contracts, interviews with the superintendent and staff as well as one investigation where staff was reassigned all provide sufficient evidence for a finding of compliance.

## Standard 115.67: Agency protection against retaliation

### 115.67 (a)

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

### 115.67 (b)

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

### 115.67 (c)

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

- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor negative performance reviews of staff? ☒ Yes ☐ No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor reassignments of staff? ☒ Yes ☐ No
- Does the agency continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need? ☒ Yes ☐ No

#### 115.67 (d)

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

#### 115.67 (e)

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

#### 115.67 (f)

- Auditor is not required to audit this provision.

#### Auditor Overall Compliance Determination

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

This standard has the following requirements:

- (a) The agency shall establish a policy to protect all inmates and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other inmates or staff, and shall designate which staff members or departments are charged with monitoring retaliation.
- (b) The agency shall employ multiple protection measures, such as housing changes or transfers for inmate victims or abusers, removal of alleged staff or inmate abusers from contact with victims, and emotional support services for inmates or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations.
- (c) For at least 90 days following a report of sexual abuse, the agency shall monitor the conduct and treatment of inmates or staff who reported the sexual abuse and of inmates who were reported to have

suffered sexual abuse to see if there are changes that may suggest possible retaliation by inmates or staff, and shall act promptly to remedy any such retaliation. Items the agency should monitor include any inmate disciplinary reports, housing, or program changes, or negative performance reviews or reassignments of staff. The agency shall continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need.

(d) In the case of inmates, such monitoring shall also include periodic status checks.

(e) If any other individual who cooperates with an investigation expresses a fear of retaliation, the agency shall take appropriate measures to protect that individual against retaliation.

(f) An agency's obligation to monitor shall terminate if the agency determines that the allegation is unfounded.

519 SHARPP addresses the requirements of this standard. It clearly supports that retaliation will not be tolerated by any staff against any employee, contractor, volunteer, or inmate for reporting a sexual harassment/abuse allegation, assisting someone in reporting an allegation or cooperating in the investigation, regardless of the merits or disposition of the allegation (a). It requires the following: use of multiple protection measures such as housing changes, transfers and/or removal of alleged abuser to protect the victim and emotional support services are available to staff or inmates who fear retaliation for reporting or cooperating with a sexual harassment/abuse allegation (b). To achieve this goal, policy states that the Superintendent will ensure that IPS will meet and monitor conduct and treatment of inmates or staff involved in the sexual harassment/abuse allegation. To look for possible retaliation, IPS will monitor inmate disciplinary reports, housing changes, program changes or negative performance reviews or reassignment of staff members (c). Policy supports that, if needed, monitoring shall continue beyond 90 days and include periodic status checks (d). 519 SHARPP further states, if any other individual who cooperates with an investigation expresses a fear of retaliation, the agency shall take appropriate measures to protect that individual against retaliation (e). The policy supports that the retaliation monitoring shall terminate if the investigation is determined to be unfounded (f).

IPS members conduct monitoring for retaliation. A review of the monitoring activities indicate that multiple protection measures are utilized regarding those who report the incident including, video, telephone, mail reviews, disciplinary reports and interviews. Monitoring has occurred up to 90 days; this was demonstrated by review of documentation of monitoring reports. Monitoring is discussed during the monthly PREA incident review meetings. Staff verbally indicated numerous avenues they use to monitor for retaliation. The interview conducted with the IPS investigator who was mainly responsible for monitoring demonstrated compliance sharing specific techniques used during the past year to ensure the inmate has not experienced retaliation. She recognizes that individuals who may have been the victim may have experienced abuse in the past require more diligence and understanding in this process. It was acknowledged that if further monitoring were needed, it would be extended past the 90 days. All investigations had documentation to support that retaliation monitoring commenced at the same time the investigation was initiated; they would stop if the investigation was deemed unfounded. The interview with the superintendent demonstrated a strong support for ensuring inmates or staff that participate in a sexual harassment/abuse allegation be free from fear of retaliation.

Interviews, review of documentation and policy all support a finding of compliance with the requirements of this standard.

## Standard 115.68: Post-allegation protective custody

### 115.68 (a)

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

### Auditor Overall Compliance Determination

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

This standard has the following requirements: Any use of segregated housing to protect an inmate who is alleged to have suffered sexual abuse shall be subject to the requirements of § 115.43.

519 SHARPP and CMR 423 Special Management Units address the requirements of this standard. Policy indicates that placement in an administrative restrictive setting will only occur for the first 24 hours. Review of records as well as interview with staff in the restrictive housing unit support compliance with the practice noting that no one has been placed in restrictive housing for protection if they suffered sexual abuse. The auditor found no reason to dispute this during the audit process.

## INVESTIGATIONS

## Standard 115.71: Criminal and administrative agency investigations

### 115.71 (a)

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

### 115.71 (b)

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

#### 115.71 (c)

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

#### 115.71 (d)

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

#### 115.71 (e)

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

#### 115.71 (f)

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

#### 115.71 (g)

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

#### 115.71 (h)

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

#### 115.71 (i)

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

#### 115.71 (j)

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

#### 115.71 (k)

- Auditor is not required to audit this provision.

#### 115.71 (l)

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

#### Auditor Overall Compliance Determination

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

(a) When the agency conducts its own investigations into allegations of sexual abuse and sexual harassment, it shall do so promptly, thoroughly, and objectively for all allegations, including third-party and anonymous reports. (b) Where sexual abuse is alleged, the agency shall use investigators who have received special training in sexual abuse investigations pursuant to § 115.34. (c) Investigators shall gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data; shall interview alleged victims, suspected perpetrators, and witnesses; and shall review prior complaints and reports of sexual abuse involving the suspected perpetrator. (d) When the quality of evidence appears to support criminal prosecution, the agency shall conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution. (e) The credibility of an alleged victim, suspect, or witness shall be assessed on an individual basis and shall not be determined by the person's status as inmate or staff. No agency shall require an inmate who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an allegation. (f) Administrative investigations: (1) Shall include an effort to



determine whether staff actions or failures to act contributed to the abuse; and (2) Shall be documented in written reports that include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings. (g) Criminal investigations shall be documented in a written report that contains a thorough description of physical, testimonial, and documentary evidence and attaches copies of all documentary evidence where feasible. (h) Substantiated allegations of conduct that appears to be criminal shall be referred for prosecution. (i) The agency shall retain all written reports referenced in paragraphs (f) and (g) of this section for as long as the alleged abuser is incarcerated or employed by the agency, plus five years. (j) The departure of the alleged abuser or victim from the employment or control of the facility or agency shall not provide a basis for terminating an investigation. (k) Any State entity or Department of Justice component that conducts such investigations shall do so pursuant to the above requirements. (l) When outside agencies investigate sexual abuse, the facility shall cooperate with outside investigators and shall endeavor to remain informed about the progress of the investigation.

519 SHARPP addresses the requirements of this standard. It states that the Department will investigate and discipline up to termination and prosecution of staff and inmates who engage in sexual harassment/sexually abusive behavior (a, h). All investigators have been thoroughly trained – see comments to 115.34 (b). In the policy under the heading Investigation Response to Sexual Harassment/Sexually Abusive Behavior Allegation subsequent paragraphs ensure investigations are completed for all allegations of sexual harassment/abuse using the specialized staff, the investigator ensures all evidence is collected and properly maintained (as per their training), witnesses are identified and interviewed with care taken to ensure safety and avoid retribution or retaliation (c). 519 SHARPP further requires that the OIS/IAU notify the district attorney's office when the case appears to be criminal (d). All allegations are considered PREA allegations until the investigation supports otherwise. Based on the training provided and interviews with investigators, credibility is assessed on the statement and corresponding facts, not status as an inmate or staff (e). The format for the investigation is standardized and addressed in 518 Inner Perimeter Security Team (f)(g). 519 SHARPP ensures that all investigations are documented in a timely and accurate manner (i).

Compliance is based on a thorough review of the completed investigations conducted in the past 12 months, and interviews with two investigators who primarily handle PREA allegations and the Special Service Investigator who handles staff misconduct investigation. Investigators were notified immediately and initiated the investigation immediately, including the gathering and preservation of direct and circumstantial evidence. The investigators are available at the facility morning through evening and are on call and can be at the facility within thirty minutes, if needed. Evidence is assessed individually, factually and in a standard format, as demonstrated in completed investigations. Potential criminal matters are handled by Superintendent's Special Investigator or staff at the agency's central office Internal Affairs unit. IPS investigators and the Special Investigator work with outside agencies to assist with investigations, when warranted. Policy requires the retention of the reports for five years past the employment or incarceration of the abuse, however at this point the investigations are maintained forever (i). Interviews with the investigators and superintendent support that the investigation will continue even if the abuser is no longer at the facility (j).

Review of investigations also supports compliance that investigators use all resources available, including interviewing all inmates who would be in the area, before making determinations. Review of investigations that were deemed not substantiated verses unfounded supports that credibility was individually assessed and findings based on evidence available. All available evidence was gathered. Physical evidence was maintained where appropriate – mostly letters and interview notes as the facility currently has limited camera coverage. Administrative investigations indicated that, where relevant, staff actions or failures to act were considered and assessed. One case has been referred for prosecution.

The investigative staff should be commended for the diligence demonstrated when receiving an anonymous allegation, which resulted in a substantiated investigation of an inmate predator. Two other investigations were deemed substantiated based of diligent proactive actions taken by the IPS members.

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

### **115.72 (a)**

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

### **Auditor Overall Compliance Determination**

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

The standard has the following requirement: The agency shall impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated.

DOC 518 Inner Perimeter Security Team demonstrates compliance with this standard noting that a preponderance of evidence is used to support investigative findings. Compliance was also demonstrated by the interviews with the investigative staff and the review of the completed investigations from the previous 12 months.

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

### **115.73 (a)**

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

#### 115.73 (b)

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

#### 115.73 (c)

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

#### 115.73 (d)

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

#### 115.73 (e)

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

#### 115.73 (f)

- Auditor is not required to audit this provision.

#### Auditor Overall Compliance Determination

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

This standard has the following requirement: (a) Following an investigation into an inmate's allegation that he or she suffered sexual abuse in an agency facility, the agency shall inform the inmate as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded. (b) If the agency did not conduct the investigation, it shall request the relevant information from the investigative agency in order to inform the inmate. (c) Following an inmate's allegation that a staff member has committed sexual abuse against the inmate, the agency shall subsequently inform the inmate (unless the agency has determined that the allegation is unfounded) whenever: (1) The staff member is no longer posted within the inmate's unit; (2) The staff member is no longer employed at the facility; (3) The agency learns that the staff member has been indicted on a charge related to sexual abuse within the facility; or (4) The agency learns that the staff member has been convicted on a charge related to sexual abuse within the facility. (d) Following an inmate's allegation that he or she has been sexually abused by another inmate, the agency shall subsequently inform the alleged victim whenever: (1) The agency learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility; or (2) The agency learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility. (e) All such notifications or attempted notifications shall be documented. (f) An agency's obligation to report under this standard shall terminate if the inmate is released from the agency's custody.

519 SHARPP supports compliance with the requirements of this standard. This policy includes Attachment I, Inmate Notification- allegation of sexual abuse/harassment, Attachment II-Inmate Notification – Staff Allegation, and Attachment III-Inmate Notification – Inmate Allegation. These notifications address all the requirements of the standard regarding the finding and status of employment, and/or status of criminal charges. Review of completed investigations from the previous twelve months support compliance with notification to inmates of the results of investigation where required. The IPS investigator who conducted the investigation is responsible for completing the notification. All investigations reviewed had corresponding notifications as appropriate.

Review of the policy, review of the investigations and the notifications that corresponded to the investigation in addition to interviews with the superintended and investigators all support a finding of compliance with this standard.

## DISCIPLINE

### Standard 115.76: Disciplinary sanctions for staff

#### 115.76 (a)

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

#### 115.76 (b)

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

#### 115.76 (c)

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

#### 115.76 (d)

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

#### Auditor Overall Compliance Determination

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

The standard has the following requirements: (a) Staff shall be subject to disciplinary sanctions up to and including termination for violating agency sexual abuse or sexual harassment policies.

(b) Termination shall be the presumptive disciplinary sanction for staff who have engaged in sexual abuse. (c) Disciplinary sanctions for violations of agency policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) shall be commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories. (d) All terminations for violations of agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies.

230 Discipline & Terminations states the following: (1) staff shall be subject to disciplinary sanctions up to and including termination for violating agency sexual abuse or sexual harassment policies (a); (2) termination shall be the presumptive disciplinary sanction for staff who have engaged in sexual abuse (b); (3) disciplinary sanctions for violations of agency policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) shall be commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories (c); (4) All terminations for violations of agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies (d). This agency has a department, Central Prosecution Unit (CPU), which works directly with prosecutors when allegations of staff criminal behavior has been made. Review of one investigation demonstrated compliance with this standard – the staff has been terminated and the incident referred for prosecution. Based on the policy, interview with the Superintendent and review of the investigations, the auditor finds this standard to be compliant.

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

### **115.77 (a)**

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

### **115.77 (b)**

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

## **Auditor Overall Compliance Determination**

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

The standard has the following requirements: (a) Any contractor or volunteer who engages in sexual abuse shall be prohibited from contact with inmates and shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies.

(b) The facility shall take appropriate remedial measures, and shall consider whether to prohibit further contact with inmates, in the case of any other violation of agency sexual abuse or sexual harassment policies by a contractor or volunteer.

519 SHARPP addresses the requirements of this standard stating that contractors who are accused of sexual harassment/sexual abuse may be removed from the institution until the investigation is completed. The Code of Conduct policy indicates investigations substantiated regarding contractors or volunteers shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies. Policy also supports that all volunteers who are accused shall be barred from entering any correctional institution until the investigation is completed.

Policy and interviews with the superintendent and contract supervisors supported that volunteers and/or contractors accused of harassment or abuse will not be allowed in the facility unless they are exonerated from the allegations. The facility reports that no volunteers or contract staff have been disciplined or terminated due to substantiated PREA allegations, in the past 12 months. The auditor found no reason to dispute this statement during the audit process.

## Standard 115.78: Disciplinary sanctions for inmates

### 115.78 (a)

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

### 115.78 (b)

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

### 115.78 (c)

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

**115.78 (d)**

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

**115.78 (e)**

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

**115.78 (f)**

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

**115.78 (g)**

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

**Auditor Overall Compliance Determination**

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

The standard has the following requirement: (a) Inmates shall be subject to disciplinary sanctions pursuant to a formal disciplinary process following an administrative finding that the inmate engaged in inmate-on-inmate sexual abuse or following a criminal finding of guilt for inmate-on-inmate sexual abuse. (b) Sanctions shall be commensurate with the nature and circumstances of the abuse committed, the inmate's disciplinary history, and the sanctions imposed for comparable offenses by other inmates with similar histories. (c) The disciplinary process shall consider whether an inmate's mental disabilities or mental illness contributed to his or her behavior when determining what type of sanction, if any, should be imposed. (d) If the facility offers therapy, counseling, or other interventions designed to address and correct underlying reasons or motivations for the abuse, the facility shall consider whether to require the offending inmate to participate in such interventions as a condition of access to programming or other benefits. (e) The agency may discipline an inmate for sexual contact



with staff only upon a finding that the staff member did not consent to such contact. (f) For the purpose of disciplinary action, a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred shall not constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation. (g) An agency may, in its discretion, prohibit all sexual activity between inmates and may discipline inmates for such activity. An agency may not, however, deem such activity to constitute sexual abuse if it determines that the activity is not coerced.

The following policies address the requirements of this standard: 519 SHARPP, 650 Mental Health Services, and 430, Inmate Discipline. 430, Inmate Discipline defines three charges of sexual assault - sexual assault on staff (contract employee, member of public or volunteer – must ensure that the staff person did not consent), sexual assault/abuse against another inmate, and sexual assault on a visitor (a), and states that the Hearing Officer will review the disciplinary chronology when deciding appropriate sanction in addition to the sanctions listed for the offense charge. (b). 519 SHARPP states that all intentional acts of sexual harassment/sexually abusive behavior or intimacy between an inmate and a staff member, or between inmates, regardless of consensual status are prohibited(g). 650 Mental Health Services states that mental health staff shall be notified prior to service of a disciplinary report on any inmate with a serious mental illness who is charged with disciplinary offenses; the disciplinary process shall be considered whether an inmate's mental disabilities or mental illness contributed to his or her behavior when determining what type of sanction, if any, should be imposed (c). 519 SHARPP further states that retaliation is not tolerated; as such misconduct will not be written against inmates when employees have consensual relations with them (e). The facility does not offer therapy; counseling or other interventions designed to address and correct underlying reasons or motivations for the abuse. The agency does offer this treatment. Mental health would determine on a case-by case basis if the inmate is a candidate for the program based (d).

Inmates are sanctioned for sexual abuse, sexual harassment as well as consensual sexual activity. Policy has an established sanctioning process to ensure discipline is commensurate with the action. Policy also requires that mental disabilities are considered before determining guilt. The elements of the charge will not find an inmate guilty if the activity was with a staff person who consented. If an inmate is to be sanctioned for making a false report, it is seriously considered by administration before action is taken. One sanction for false allegations was written in the previous twelve months; the evidence supporting the finding was provided to the auditor. There were no disciplinary reports against inmates for unfounded allegations. There were substantiated unauthorized sexual activity and substantiated inmate sexual harassment reports that corresponded to the review of misconducts for the past year. As stated, the agency does not require participation in therapy as a condition of programming or other benefits. This would occur with overall programming needs in which sexual misconduct in the prison would be taken into consideration with the action that warrant the prison sentence when sending to specialized treatment. Based on an analysis of the policy, review of investigations, interviews with the superintendent and investigators provide sufficient evidence for the auditor to find this standard in compliance.

## **MEDICAL AND MENTAL CARE**

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

### 115.81 (a)

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

### 115.81 (b)

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

### 115.81 (c)

- If the screening pursuant to § 115.41 indicates that a jail inmate has experienced prior sexual victimization, whether it occurred in an institutional setting or in the community, do staff ensure that the inmate is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening? ☐ Yes ☐ No This is not applicable to this facility.

### 115.81 (d)

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

### 115.81 (e)

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

### Auditor Overall Compliance Determination

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

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

The standard has the following requirements: (a) If the screening pursuant to § 115.41 indicates that a prison inmate has experienced prior sexual victimization, whether it occurred in an institutional setting or in the community, staff shall ensure that the inmate is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening. (b) If the screening pursuant to § 115.41 indicates that a prison inmate has previously perpetrated sexual abuse, whether it occurred in an institutional setting or in the community, staff shall ensure that the inmate is offered a follow-up meeting with a mental health practitioner within 14 days of the intake screening. (c) If the screening pursuant to § 115.41 indicates that a jail inmate has experienced prior sexual victimization, whether it occurred in an institutional setting or in the community, staff shall ensure that the inmate is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening. (d) Any information related to sexual victimization or abusiveness that occurred in an institutional setting shall be strictly limited to medical and mental health practitioners and other staff, as necessary, to inform treatment plans and security and management decisions, including housing, bed, work, education, and program assignments, or as otherwise required by Federal, State, or local law. (e) Medical and mental health practitioners shall obtain informed consent from inmates before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the inmate is under the age of 18.

650 Mental Health Services addresses the requirements of this standard. It requires that all inmates are assessed during intake screening and upon transfer to another facility be assessed for their risk of being sexually abused by other inmates or sexually abusive towards other inmates. This policy further requires that if the screening indicates prior victimization, staff shall ensure he/she is offered a follow up meeting with mental health staff within 14 days (a). It also requires a follow up meeting with mental health within fourteen days if the inmate has previously perpetrated sexual abuse (b). A section of the initial intake screen is conducted by mental health staff, referral is automatic and immediate for prior victims and prior perpetrators to be assessed for possible continued treatment. Policy reflected the requirements for confidentiality and informed consent as required by the standard. 650 Mental Health Services further requires that any information related to sexual victimization or abusiveness that occurred in an institutional setting shall be strictly limited to medical and mental health practitioners and other staff, as necessary, to inform treatment plans and security and management decisions, including housing, bed, work, education, and program assignments, or as otherwise required by Federal, State, or local law (d). It also requires that medical and mental health practitioners obtain informed consent from inmates before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the inmate is under the age of 18. Staff interviews (medical and mental health staff) support compliance. To date, they have not had an incident in which informed consent was required before reporting information about prior victimization that did not occur in an institutional setting. A review of randomly requested intakes for the month of February 2019 support that this has occurred. Medical and mental health staff are actively involved in the risk assessment and therefore directly aware of who requires a referral to mental health. (c) This does not apply to this facility, as it is a prison.

Policy supports the requirements of the standard, interviews with medical and mental health staff confirm knowledge of and practice that this is occurring. Review of the randomly requested documentation supports this as well. As medical and mental health staffs conduct the intake assessment, the referral process is seamless and therefore ensuring that those requiring the follow up referral will not be missed. For these reasons, the auditor finds this standard to be compliant.

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

### **115.82 (a)**

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

### **115.82 (b)**

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

### **115.82 (c)**

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

### **115.82 (d)**

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

### **Auditor Overall Compliance Determination**

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

This standard has the following requirements: (a) Inmate victims of sexual abuse shall receive timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by medical and mental health practitioners according to their professional judgment. (b) If no qualified medical or mental health practitioners are on duty at the time a report of recent abuse is made, security staff first responders shall take preliminary steps to protect the victim pursuant to § 115.62 and shall immediately notify the appropriate medical and mental health practitioners. (c) Inmate victims of sexual abuse while incarcerated shall be offered timely information about and timely access to emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care, where medically appropriate. (d) Treatment services shall be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.

519 SHARPP addresses this standard. It states that inmate victims of sexual abuse shall receive timely, unimpeded access to emergency medical treatment and crisis intervention services. These services are based upon an evaluation by a qualified health care professional (a). Health care staffs at this facility are available on site twenty four hours a day, seven days a week (24/7) (b). 630 Medical Services and 650 Mental Health Services are referenced in the policy regarding access to emergency services. Policy supports that there will be unimpeded access, timely information and services regarding prophylaxis care and no costs incurred to the inmate (c). Interviews with the medical and mental health staff as well as the superintendent support that this will occur. Completed investigations from the previous 12 months demonstrate that one allegation warranted the need for emergency medical treatment outside the facility. Documentation was provided to the auditor supporting compliance with the requirements of this standard. Staff interviews support that all potential victims are automatically assessed by medical staff in accordance with the facility response plan.

As supported above, policy, interviews, reviews of investigations and other documentation support a finding of compliance with the requirements of this standard.

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

### **115.83 (a)**

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

### **115.83 (b)**

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

### **115.83 (c)**

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

#### 115.83 (d)

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

#### 115.83 (e)

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

#### 115.83 (f)

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

#### 115.83 (g)

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

#### 115.83 (h)

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

#### Auditor Overall Compliance Determination

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

This standard has the following requirements: (a) the facility shall offer medical and mental health evaluation and, as appropriate, treatment to all inmates who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility. (b) The evaluation and treatment of such victims shall include, as appropriate, follow-up services, treatment plans, and, when necessary, referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody. (c) The facility shall provide such victims with medical and mental health services consistent with the

community level of care. (d) Inmate victims of sexually abusive vaginal penetration while incarcerated shall be offered pregnancy tests. (e) If pregnancy results from the conduct described in paragraph (d) of this section, such victims shall receive timely and comprehensive information about and timely access to all lawful pregnancy-related medical services. (f) Inmate victims of sexual abuse while incarcerated shall be offered tests for sexually transmitted infections as medically appropriate. (g) Treatment services shall be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident. (h) All prisons shall attempt to conduct a mental health evaluation of all known inmate-on-inmate abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate by mental health practitioners.

519 SHARPP and 650 Mental Health Services address this standard indicating that on-going medical and mental health treatment would be provided, and also reflected no charge for the services (a). In the past 12 months, one incident occurred that warranted ongoing medical and mental health care due to an allegation of sexual abuse. Documentation was provided to the auditor, which demonstrated that ongoing medical, and mental health treatment was provided which included sexually transmitted disease testing (STD) testing, prophylactic treatment and mental health (b). Treatment is consistent with community levels of care. This was confirmed by the interviews with the medical and mental health staff and review of the documentation and medical notes regarding the post incident treatment in the documentation provided (c). No females are housed at this facility (d) (e). 650 Mental Health Services ensures that a mental health evaluation of all known inmate-on-inmate abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate by mental health practitioners.

## DATA COLLECTION AND REVIEW

### Standard 115.86: Sexual abuse incident reviews

#### 115.86 (a)

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

#### 115.86 (b)

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

#### 115.86 (c)

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

#### 115.86 (d)

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

#### 115.86 (e)

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

#### Auditor Overall Compliance Determination

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

(a) The standard requires that the facility shall conduct a sexual abuse incident review at the conclusion of every sexual abuse investigation, including where the allegation has not been substantiated, unless the allegation has been determined to be unfounded. (b) Such review shall ordinarily occur within 30 days of the conclusion of the investigation. (c) The review team shall include upper-level management officials, with input from line supervisors, investigators, and medical or mental health practitioners. (d) The review team shall: (1) Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse; (2) Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; or gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility; (3) Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse; (4)



Assess the adequacy of staffing levels in that area during different shifts; (5) Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff; and (6) Prepare a report of its findings, including but not necessarily limited to determinations made pursuant to paragraphs (d)(1)-(d)(5) of this section, and any recommendations for improvement and submit such report to the facility head and PREA compliance manager. (e) The facility shall implement the recommendations for improvement, or shall document its reasons for not doing so.

519 SHARPP addresses all requirements of this standard by establishing a PREA committee comprised of the PREA Manager, upper-level management officials, line supervisors, investigators, medical and/or mental health practitioners, and any other individual deemed integral to successful implementation of the PREA process. The PREA committee meets monthly (b) and assesses site specific issues regarding sexual abuse/harassment and compliance with the policy SHARPP. The team consists of the superintendent, PREA manager, medical staff, mental health staff, investigator(s), corrections program officer and captain (c). Meeting minutes reflect the reviews of cases, inmate monitoring and open dialogue. Sexual abuse and sexual harassment incidents are reviewed; all areas noted in the standard are considered and included in the assessment requiring that it be addressed, and documented in the reviews. This specifically includes is a policy or practice change needed (d-1), was the incident motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; or gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility (d-2). It addresses the Review Team examination of the area (d-3) and assessment of staffing levels (d-4). Monitoring technology is assessed for the area (d-5). A summary of the findings is made including recommendations for improvement (d-6). Each section has a check box or drop-down box and an area for comments. These reviews are maintained in the database for future review and analysis. A section is included on each report regarding recommendations, and when and if implemented, or why it wasn't implemented (e).

Incident reports were reviewed that demonstrated compliance. This review also triggers the necessity of an updated Risk Assessment as well as capturing the necessity for a mental health follow up, licensing body notification, and recommendations for improvement. With this database, statistics regarding the prevalence of abuse and harassment can be easily retrieved for all facilities and trends can be assessed at any time. Interviews were conducted with the PREA Manager, medical and mental health staff, the investigator and the housing unit assignment officer that support compliance with the requirements of this standard.

## **Standard 115.87: Data collection**

### **115.87 (a)**

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

### **115.87 (b)**

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

**115.87 (c)**

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

**115.87 (d)**

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

**115.87 (e)**

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

**115.87 (f)**

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

**Auditor Overall Compliance Determination**

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

This standard has the following requirements: (a) The agency shall collect accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions; (b) The agency shall aggregate the incident-based sexual abuse data at least annually; (c) The incident-based data collected shall include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence conducted by the Department of Justice; (d) The agency shall maintain, review, and collect data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews; (e) The agency also shall obtain incident-based and aggregated data from every private facility with which it contracts for the confinement of its inmates; and (f) Upon request, the agency shall provide all such data from the previous calendar year to the Department of Justice no later than June 30.

519.09 SHARPP addresses the requirements of this standard stating that all incidents or allegations of sexually abusive/harassing behavior shall be documented in a timely and accurate manner via the investigative process and in the PREA database. It further requires that the information is reviewed monthly to ensure all data fields have been completed and appropriate documentation uploaded. 519 further states, The Department shall collect accurate, uniform data for every allegation of sexual harassment/abuse at institutions through the use of the PREA database (a). The Departmental PREA Coordinator/designee shall aggregate the incident-based sexual abuse data at least annually (b); the incident-based data collected shall include, at a minimum, the data necessary to answer all inquiries and surveys by the Department of Justice (c); The Department shall maintain, review, and collect data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews (d); The Department shall also attempt to obtain incident-based and aggregated data from every private facility with which it contracts for the confinement of its inmates (e); and (f) Upon request, the Department's PREA Coordinator shall provide all such data from the previous calendar year to the Department of Justice.

The 2018 Annual PREA report is available on the website. The report includes information from all prisons within the Massachusetts Department of Correction. It utilizes the Survey of Sexual Victimization and definitions provided in the standards to ensure uniform data is collected. With the development of the database, statistics regarding the prevalence of abuse and harassment from all facilities can be easily retrieved for all facilities and trends can be assessed at any time. It compares statistics with the previous year. Staff reports that the Survey on Sexual Victimization (formerly the Survey on Sexual Violence) was submitted to the DOJ as required. A copy was made available to the auditor.

The Auditor deems this to "Exceeds standard" due to the availability to aggregate information whenever a need presents based on the database, and therefore analyze information more than annually.

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

### **115.88 (a)**

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

### **115.88 (b)**

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

#### 115.88 (c)

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

#### 115.88 (d)

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

### Auditor Overall Compliance Determination

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

The requirements for this standard are as follows: (a) The agency shall review data collected and aggregated pursuant to § 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by:

- (1) Identifying problem areas;
  - (2) Taking corrective action on an ongoing basis; and
  - (3) Preparing an annual report of its findings and corrective actions for each facility, as well as the agency as a whole.
- (b) Such report shall include a comparison of the current year's data and corrective actions with those from prior years and shall provide an assessment of the agency's progress in addressing sexual abuse.
- (c) The agency's report shall be approved by the agency head and made readily available to the public through its website or, if it does not have one, through other means. (d) The agency may redact specific material from the reports when publication would present a clear and specific threat to the safety and security of a facility, but must indicate the nature of the material redacted.

519.09 SHARPP language supports compliance with this standard. It requires the Department to review data collected and aggregated in order to assess and improve the effectiveness of its sexual harassment/abuse response prevention policy and all efforts related to prevention, detection and response to sexual harassment/abuse allegations. It specifically requires identification of problem areas, corrective action on an ongoing basis, and preparation of an annual report (a). SHARPP

requires the comparison of the current year's data and correction action with those from prior years in addition to an assessment of the agency's progress (b). It requires the Commissioner to review and approve the report and make it readily available to the public on the Department's website(c). No information required redaction (d).

The 2018 report is available on the website at <https://www.mass.gov/lists/prea-reports>. The Annual Reports for the following years are available: 2013, 2014, 2015, 2016, and 2017. The report includes information on achievements, purpose, summary of data collection capabilities, aggregated data with comparison to prior years, definitions, agency overview form 2018 compared to 2017, data regarding incidents by facility and type, trends, identified problem areas and corrective action, resolved problems from the previous year, and an assessment of progress in addressing inmate sexual abuse.

The interview with the agency Deputy Commissioner confirmed that this report is used for review of staffing, policy and technology improvements. The interview with the PREA Coordinator supported that time and attention to preparing a useful, detailed report is important to the Department and the PREA Unit. Review of the policy, the annual reports which are detailed, thorough, and available on the Department webpage, interview with the Deputy Commissioner and interview with the PREA Coordinator all support a finding of compliance with the requirements of this standard.

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

### **115.89 (a)**

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

### **115.89 (b)**

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

### **115.89 (c)**

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

### **115.89 (d)**

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

## **Auditor Overall Compliance Determination**

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

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

This standard requires the following: (a) The agency shall ensure that data collected pursuant to § 115.87 are securely retained. (b) The agency shall make all aggregated sexual abuse data, from facilities under its direct control and private facilities with which it contracts, readily available to the public at least annually through its website or, if it does not have one, through other means.

(c) Before making aggregated sexual abuse data publicly available, the agency shall remove all personal identifiers. (d) The agency shall maintain sexual abuse data collected pursuant to § 115.87 for at least 10 years after the date of the initial collection unless Federal, State, or local law requires otherwise.

519 SHARPP addresses the requirements of this standard in addition to the Record Retention Schedule. The policy indicates that the Department will ensure that data collected is securely retained and only shared with individuals, institutions, and/or agencies, on a “need to know basis” (a). The Annual reports for 2013, 2014, 2015, 2016, 2017 and 2018 are posted on the agency website (b); no personal identification is in the report (c). SHARPP requires that the Department maintain collected sexual harassment/abuse data for at least 10 years after the date of the initial collections. It further indicates that Destruction of any records shall be done in accordance with the latest Massachusetts Statewide Records Retention Schedule (d). The Auditor reviewed the retention schedule updated June 2018. It supports that Inmate Investigation Records are retained for 10 years. As the remainder of the data is stored electronically, at this point it is retained forever until deemed otherwise.

A finding of compliance is given by the Auditor based on review of the policy, retention schedule, observation of the database during the audit, review of reports on the Department website and interview with the PREA Coordinator who oversees all efforts to prevent, detect, and respond to sexual harassment/abuse for this Department. She is directly responsible for the completion of the Annual Report and the information required.

## AUDITING AND CORRECTIVE ACTION

### Standard 115.401: Frequency and scope of audits

#### 115.401 (a)

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

#### 115.401 (b)

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

#### 115.401 (h)

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

#### 115.401 (i)

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

#### 115.401 (m)

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

#### 115.401 (n)

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

#### Auditor Overall Compliance Determination

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

115.401 (b) The agency started audits of state correctional facilities in April 2014. For that fiscal year and the next year, all facilities were audited. For 2017, one third of the state's correctional facilities were audited and they continue to audit as required by the schedule. For 2018, another one third of the agency's state correctional facilities was audited.

#### Standard 115.403: Audit contents and findings

#### 115.403 (f)

- The agency has published on its agency website, if it has one, or has otherwise made publicly available, all Final Audit Reports within 90 days of issuance by auditor. The review period is for prior audits completed during the past three years PRECEDING THIS AGENCY AUDIT. In the case of single facility agencies, the auditor shall ensure that the facility's last audit report was

published. The pendency of any agency appeal pursuant to 28 C.F.R. § 115.405 does not excuse noncompliance with this provision. (N/A if there have been no Final Audit Reports issued in the past three years, or in the case of single facility agencies that there has never been a Final Audit Report issued.) ☒ Yes ☐ No ☐ NA

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

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

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

All audit reports for the previous three years are available on the agency website  
<http://www.mass.gov/eopss/law-enforce-and-cj/prisons/offices-and-divs/prea-audit-reports.html>



## 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.

*Amy J. Fairbanks*

July 21, 2019

**Auditor Signature**

**Date**