

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

Interim       Final

**Date of Final Audit Report:    December 16, 2020**

## Auditor Information

<b>Name:</b> Amy J. Fairbanks, Robbin Bell	<b>Email:</b> fairbaa@comcast.net
<b>Company Name:</b> AJF, Correctional Consulting & Auditing, L.L.C.	
<b>Mailing Address:</b> 3105 S. Martin Luther King Jr. Blvd #236	<b>City, State, Zip:</b> Lansing, MI 48910
<b>Telephone:</b> (517) 303-4081	<b>Date of Facility Visit:</b> October 21-22, 2020

## Agency Information

<b>Name of Agency:</b> Massachusetts Department of Correction		<b>Governing Authority or Parent Agency (If Applicable):</b> Commonwealth of Massachusetts	
<b>Physical Address:</b> 50 Maple Street Suite 3		<b>City, State, Zip:</b> Milford, MA 01757-3698	
<b>Mailing Address:</b>		<b>City, State, Zip:</b>	
<b>The Agency 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>Agency Website with PREA Information:</b> <a href="https://www.mass.gov/service-details/learn-about-the-prison-rape-elimination-act-prea">https://www.mass.gov/service-details/learn-about-the-prison-rape-elimination-act-prea</a>			

## Agency Chief Executive Officer

<b>Name:</b> Carol A. Mici	
<b>Email:</b> Carol.Mici@massmail.state.ma.us	<b>Telephone:</b> 508-422-3330

## Agency-Wide PREA Coordinator

<b>Name:</b> Russell Caissie	
<b>Email:</b> Russell.Caissie@doc.state.ma.us	<b>Telephone:</b> 508-422-3646
<b>PREA Coordinator Reports to:</b>  Deputy Commissioner of Career and Professional Development	<b>Number of Compliance Managers who report to the PREA Coordinator</b> 14

## Facility Information

**Name of Facility:** MCI Cedar Junction

**Physical Address:** 2405 Main Street

**City, State, Zip:** South Walpole, MA 02071

**Mailing Address (if different from above):**  
PO Box 100

**City, State, Zip:** South Walpole, MA 02071

**The Facility Is:**

Military

Private for Profit

Private not for Profit

Municipal

County

State

Federal

**Facility Type:**

Prison

Jail

**Facility Website with PREA Information:** [www.mass.gov/service-details/learn-about-the-prison-rape-elimination-act-prea](http://www.mass.gov/service-details/learn-about-the-prison-rape-elimination-act-prea)

**Has the facility been accredited within the past 3 years?**  Yes  No

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

ACA

NCCHC

CALEA

Other (please name or describe:

N/A

**If the facility has completed any internal or external audits other than those that resulted in accreditation, please describe:**

CJ conducts yearly internal audits and undergoes external audits from the Policy and Development and Compliance Unit (PDCU) twice a year

### Warden/Jail Administrator/Sheriff/Director

**Name:** Douglas W. DeMoura, Superintendent

**Email:** douglas.demoura@doc.state.ma.us

**Telephone:** 508 660-8000 ext. 100

### Facility PREA Compliance Manager

**Name:** Jodi-Hockert-Lotz, Deputy Superintendent

**Email:** jodi.hockert-lotz@doc.state.ma.us

**Telephone:** 508 660-8000 ext. 404

### Facility Health Service Administrator N/A

**Name:** Dawn Struzzieri

**Email:** dstruzzo@wellpath.us

**Telephone:** 508 660-3924 ext. 344

<b>Facility Characteristics</b>	
<b>Designated Facility Capacity:</b>	646
<b>Current Population of Facility:</b>	423
<b>Average daily population for the past 12 months:</b>	542
<b>Has the facility been over capacity at any point in the past 12 months?</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>Which population(s) does the facility hold?</b>	<input type="checkbox"/> Females <input checked="" type="checkbox"/> Males <input type="checkbox"/> Both Females and Males
<b>Age range of population:</b>	18-78
<b>Average length of stay or time under supervision:</b>	176 days
<b>Facility security levels/inmate custody levels:</b>	Maximum with medium component
<b>Number of inmates admitted to facility during the past 12 months:</b>	322
<b>Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 72 hours or more:</b>	321
<b>Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 30 days or more:</b>	319
<b>Does the facility hold youthful inmates?</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>Number of youthful inmates held in the facility during the past 12 months: (N/A if the facility never holds youthful inmates)</b>	Click or tap here to enter text. <input checked="" type="checkbox"/> N/A
<b>Does the audited facility hold inmates for one or more other agencies (e.g. a State correctional agency, U.S. Marshals Service, Bureau of Prisons, U.S. Immigration and Customs Enforcement)?</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>Select all other agencies for which the audited facility holds inmates: Select all that apply (N/A if the audited facility does not hold inmates for any other agency or agencies):</b>	<input checked="" type="checkbox"/> Federal Bureau of Prisons <input type="checkbox"/> U.S. Marshals Service <input type="checkbox"/> U.S. Immigration and Customs Enforcement <input type="checkbox"/> Bureau of Indian Affairs <input type="checkbox"/> U.S. Military branch <input type="checkbox"/> State or Territorial correctional agency <input type="checkbox"/> County correctional or detention agency <input type="checkbox"/> Judicial district correctional or detention facility <input type="checkbox"/> City or municipal correctional or detention facility (e.g. police lockup or city jail) <input type="checkbox"/> Private corrections or detention provider <input type="checkbox"/> Other - please name or describe: Click or tap here to enter text. <input type="checkbox"/> N/A
<b>Number of staff currently employed by the facility who may have contact with inmates:</b>	429
<b>Number of staff hired by the facility during the past 12 months who may have contact with inmates:</b>	27

Number of contracts in the past 12 months for services with contractors who may have contact with inmates:	1
Number of individual contractors who have contact with inmates, currently authorized to enter the facility:	67
Number of volunteers who have contact with inmates, currently authorized to enter the facility:	3
<b>Physical Plant</b>	
<p><b>Number of buildings:</b></p> <p>Auditors should count all buildings that are part of the facility, whether inmates are formally allowed to enter them or not. In situations where temporary structures have been erected (e.g., tents) the auditor should use their discretion to determine whether to include the structure in the overall count of buildings. As a general rule, if a temporary structure is regularly or routinely used to hold or house inmates, or if the temporary structure is used to house or support operational functions for more than a short period of time (e.g., an emergency situation), it should be included in the overall count of buildings.</p>	4
<p><b>Number of inmate housing units:</b></p> <p>Enter 0 if the facility does not have discrete housing units. DOJ PREA Working Group FAQ on the definition of a housing unit: How is a "housing unit" defined for the purposes of the PREA Standards? The question has been raised in particular as it relates to facilities that have adjacent or interconnected units. The most common concept of a housing unit is architectural. The generally agreed-upon definition is a space that is enclosed by physical barriers accessed through one or more doors of various types, including commercial-grade swing doors, steel sliding doors, interlocking sally port doors, etc. In addition to the primary entrance and exit, additional doors are often included to meet life safety codes. The unit contains sleeping space, sanitary facilities (including toilets, lavatories, and showers), and a dayroom or leisure space in differing configurations. Many facilities are designed with modules or pods clustered around a control room. This multiple-pod design provides the facility with certain staff efficiencies and economies of scale. At the same time, the design affords the flexibility to separately house inmates of differing security levels, or who are grouped by some other operational or service scheme. Generally, the control room is enclosed by security glass, and in some cases, this allows inmates to see into neighboring pods. However, observation from one unit to another is usually limited by angled site lines. In some cases, the facility has prevented this entirely by installing one-way glass. Both the architectural design and functional use of these multiple pods indicate that they are managed as distinct housing units.</p>	12
Number of single cell housing units:	10
Number of multiple occupancy cell housing units:	2
Number of open bay/dorm housing units:	0
Number of segregation cells (for example, administrative, disciplinary, protective custody, etc.):	194
In housing units, does the facility maintain sight and sound separation between youthful inmates and adult inmates? (N/A if the facility never holds youthful inmates)	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
Does the facility have a video monitoring system, electronic surveillance system, or other monitoring technology (e.g. cameras, etc.)?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Has the facility installed or updated a video monitoring system, electronic surveillance system, or other monitoring technology in the past 12 months?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

## Medical and Mental Health Services and Forensic Medical Exams

<b>Are medical services provided on-site?</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>Are mental health services provided on-site?</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>Where are sexual assault forensic medical exams provided? Select all that apply.</b>	<input type="checkbox"/> On-site <input checked="" type="checkbox"/> Local hospital/clinic <input type="checkbox"/> Rape Crisis Center <input type="checkbox"/> Other (please name or describe: <a href="#">Click or tap here to enter text.</a> )

### Investigations

#### Criminal Investigations

<b>Number of investigators employed by the agency and/or facility who are responsible for conducting CRIMINAL investigations into allegations of sexual abuse or sexual harassment:</b>	7
<b>When the facility received allegations of sexual abuse or sexual harassment (whether staff-on-inmate or inmate-on-inmate), CRIMINAL INVESTIGATIONS are conducted by: Select all that apply.</b>	<input type="checkbox"/> Facility investigators <input checked="" type="checkbox"/> Agency investigators <input type="checkbox"/> An external investigative entity
<b>Select all external entities responsible for CRIMINAL INVESTIGATIONS: Select all that apply (N/A if no external entities are responsible for criminal investigations)</b>	<input type="checkbox"/> Local police department <input type="checkbox"/> Local sheriff's department <input checked="" type="checkbox"/> State police <input type="checkbox"/> A U.S. Department of Justice component <input type="checkbox"/> Other (please name or describe: <a href="#">Click or tap here to enter text.</a> ) <input type="checkbox"/> N/A

#### Administrative Investigations

<b>Number of investigators employed by the agency and/or facility who are responsible for conducting ADMINISTRATIVE investigations into allegations of sexual abuse or sexual harassment?</b>	10
<b>When the facility receives allegations of sexual abuse or sexual harassment (whether staff-on-inmate or inmate-on-inmate), ADMINISTRATIVE INVESTIGATIONS are conducted by: Select all that apply</b>	<input checked="" type="checkbox"/> Facility investigators <input checked="" type="checkbox"/> Agency investigators <input type="checkbox"/> An external investigative entity
<b>Select all external entities responsible for ADMINISTRATIVE INVESTIGATIONS: Select all that apply (N/A if no external entities are responsible for administrative investigations)</b>	<input type="checkbox"/> Local police department <input type="checkbox"/> Local sheriff's department <input type="checkbox"/> State police <input type="checkbox"/> A U.S. Department of Justice component <input type="checkbox"/> Other (please name or describe: <a href="#">Click or tap here to enter text.</a> ) <input type="checkbox"/> N/A

# Audit Findings

## Audit Narrative

On October 21-22, 2020, an audit was conducted at the MCI-Cedar Junction to determine compliance with the Prison Rape Elimination Act (PREA) standards finalized August 2012. The auditors were present at the facility from 8:00 pm to 6:00 pm on Wednesday and 8:00 am to 3:00 pm on Thursday. The facility was previously audited in 2017 and found to be in compliance with all standards. There were no barriers to completing the audit. The auditor's business was selected to complete the audit by responding to the request for proposal and being awarded the contract.

### **Audit Methodology:**

The PREA Resource Audit Instrument used for Adult Prisons and Jails is furnished by the National PREA Resource Center. This tool includes the following: A) Pre-Audit Questionnaire (PAQ), sent by MCI – Cedar Junction; B) the Auditor Compliance Tool; C) Instructions for the PREA Audit Tour; D) the Interview Protocols; E) the Auditor's Summary Report; F) the Process Map; and G) the Checklist of Documentation. In addition, the Auditor Handbook 2017 was used to guide the audit process. The established 12-month review period is July 1, 2019 to June 30, 2020. Any events relative to the standards occurring beyond that period were discussed/reviewed during the on-site audit.

### **Pre-audit:**

The facility reported that posters announcing the audit with the auditor's name and address were placed throughout the facility July 2020 and then they ensured their placement September 2020 (as the audit was postponed due to the coronavirus pandemic) announcing the audit and identifying the auditors' address in English and Spanish. Photographs were also sent to the auditor for further verification. They were observed by the auditor throughout the facility during the tour(s). The posters indicated that any correspondence sent to the auditor would be confidential and not disclosed unless required by law. The exceptions in the law were noted. One confidential correspondence letter was received in response to the posters announcing the audit, after the audit was conducted. Documentation was provided to the auditor via an information system called PowerDMS July 2020.

Documentation was provided for each standard and subpart for the auditor to review prior to the on-site audit. The Pre-Audit Questionnaire and corresponding documentation was reviewed thirty days prior to the on-site audit and found to be complete.

The Agency website was reviewed. Prior PREA Audit reports were available (twenty-five total), the previous PREA audit report from March 2017 for MCI-Cedar Junction, and How to Make a Third-Party Allegation with an online complaint phone and a phone number available 24 hrs. a day. were available. Annual reports for 2013 to 2019 were accessible for review. The auditor also reviewed the mandatory reporting laws, laws regarding where and how juveniles are housed and laws regarding vulnerable adults for the Commonwealth of Massachusetts prior to the audit.

The auditor researched the Internet and found neither evidence of Department of Justice involvement, nor any concerning information. Contact was made with Just Detention, Inc. and Prison Legal Services (PLS) to determine if they had any concerns regarding this agency/facility. PLS is a not-for-profit legal services corporation, founded in 1972, that provides civil legal assistance to people who are incarcerated in Massachusetts state prisons and in the county jails and houses of correction. They engage in administrative advocacy, litigation, and public education on behalf of prisoners and their families. They keep tabs on the policies and practices affecting the over 25,000 individuals imprisoned in Massachusetts. No specific information regarding this facility was provided as they had not received any concerns regarding this facility.

A contract with the Boston Area Rape Crisis Center (BARCC) is in place. They provide confidential emotional support services via telephone or mail, and advocacy services should an inmate be taken to the hospital for a SANE exam. The Massachusetts Department of Public Health ensures that qualified SANE examiners are available at designated hospitals. The Massachusetts State Police provides external reporting for inmates housed in the Massachusetts Department of Corrections, and, if needed, would conduct criminal investigations regarding allegations of sexual abuse.

A tentative schedule was sent to the facility five days prior to the audit. In addition, the facility was provided specific requests for documentation of a random nature which assisted the auditor in determining compliance.

**On-site audit:**

A brief formal meeting was held with the Superintendent, the PREA Manager/Deputy Superintendent, the PREA Coordinator, his assistant and the auditors the morning of the first day of the audit. The following items were reviewed: purpose of audit, goals and expectations, and the tentative schedule. Tentative schedules were developed regarding the tour, interviews and review of additional documentation. It had been arranged for interviews to be conducted in a private setting. Rosters of staff and inmates were provided; a list of specialized, random and targeted interviews was developed.

A complete tour of the facility was conducted on October 21, 2020. The following areas and operations were visited and observed: inmate living areas, medical operations, library/education areas, programming areas, mailroom operations, visiting room, maintenance, industries, laundry operations, chapel, recreation areas (indoor and outdoor), Disciplinary Detention Unit (DDU), Behavior Management Unit (BMU) and food service operations. All areas of the facility were visited that have inmate access. Supervision practices, blind spots, bathroom facilities, and placement and number of telephones were observed. Cross-gender announcements were made prior to the opposite gender auditors entering the living units. Posters announcing the audit were observed throughout the facility and were salient (use of colored paper).

For this audit, formal interviews were conducted with the following:

- Agency head/designee
- Superintendent
- PREA Coordinator
- PREA Compliance Manager (incident review team member)
- Medical/mental health staff (Director of Nursing, Office of Mental Health staff)
- Mental health clinician (observed conducting the risk assessment review process)
- Human Resources Manager
- Fifteen corrections officers/sergeants from all areas of the facility and each shift (one who worked in the confinement unit)
- Two Corrections Programs Officers (CPO)
- Two shift supervisors who conduct unannounced rounds
- One nurse who conducts the intake risk assessment
- Two investigators
- The intake officer (who completes part of the initial intake risk screening, ensures educational materials are received)
- Volunteer Coordinator
- Two contractual staff (programming)
- 

Informal interviews were conducted during the tour with an industry supervisor, chaplain, recreation staff and librarian. They were informally asked if they knew their obligation under the PREA laws, and to whom would they report any concerns, and they have received the training. After review of investigations, it was concluded that no staff that had acted as a first responder.

A total of twenty-six (26) inmates were selected to be interviewed. No youthful offenders are housed at this facility. No transgender/intersex inmates were at the facility on the day of the audit. Inmates were interviewed from each housing unit. Targeted inmate interviews included the following:

- One with limited English (language line used)
- Two self-identified as gay or bi-sexual
- Three who initiated a sexual harassment/sexual abuse complaint
- Three who self-reported as having prior victimization
- Two inmates with physical disabilities
- Two cognitively impaired inmate
- One inmate hard of hearing

Inmate interviews were held in the private interview rooms. During the tour, an inmate in the DDU asked about the PREA audit indicating he had sent a letter. No letter was received prior to the initiation of the audit. The auditor met with him, noted his concerns about a previous investigation, the facility provided the information as requested, and the auditor deemed to not find any concerns regarding the process. The letter was received in the mailbox upon return from the audit.

Investigations are conducted by the Inner Perimeter Security (IPS) team who report to the Superintendent. Investigations involving staff would be investigated by the Superintendent's Special Investigator (SSI). A list of PREA investigations completed was provided to the auditor for 2007 to present. The last nineteen completed investigations were reviewed for this facility, nine deemed unsubstantiated, ten unfounded.

- Four inmates-on-inmate abuse
- Three inmate-on-inmate harassment
- Three staff-on-inmate harassment
- Nine staff-on-inmate abuse

Two were the result of a call to the hotline, one was a third-party allegation, one was received from outside the facility, and the remainder were received from mental health, most during the intake process. Many were allegations of sexual abuse that occurred several years ago - information revealed during the intake process. The auditor found the investigation process to be sound, using a preponderance of evidence to support final decision. More detailed comments are noted in the standard findings.

The auditors were allowed free access to all areas of the facility, access to interview inmates and staff selected randomly and intentionally, and to see and retain any documentation requested. While on-site, additional random documents were requested or reviewed and are noted throughout the report.

An Exit meeting was held with the Superintendent, the PREA Manager/Deputy Superintendent five members of his executive staff and the auditor to review audit experiences, observations and preliminary findings.

**Post on-site audit:**

Documentation gathered was reviewed for compliance with the standards. A final report was written. No corrective action was required for this facility.



## Facility Characteristics

The Massachusetts Correctional Institution, Cedar Junction (MCI-Cedar Junction) is located in Walpole, Massachusetts, approximately thirty (30) miles from downtown Boston. It is a multi-level facility that serves as the main reception center for male inmates. There is also the department's Disciplinary Detention Unit (DDU) in which all movement is restricted; there is a Behavioral Modification Unit (BMU). Inside the secure perimeter are the following operations: Intake, health services, health services unit (thirteen cells), programming areas, library, gymnasium, chapel, food service operations, industry operations and laundry operations.

There are a variety of housing unit designs with different missions:

East wing: B-1 closed, B2 cells double bunked, B3 cells double bunked, B4 Federal Detainees, B5 closed, B6 closed, B7, B8 Medication for Opioid Use Disorder patients, OU closed.

West Wing: A1 Orientation Unit, A2, permanent work force, A3 returns to higher custody or those awaiting transfer to medium or minimum.

10 Block/HSU: Inmates newly received - quarantine.

DDU: four cells for mental health watches, 61 cells for non SMI inmates serving a DDU sentence  
42 cells for SMI inmates serving a DDU sanction

21 cells LPU (an alternative to Restrictive Housing)

BMU: ten cells designated for SMI inmates approved for Secure Treatment Placement. There are mental health watch cells located in this area as well.

All assigned cells have a sink/toilet within the cell. Showers are located in each housing area. All housing units have inmate telephones available (2-3), DDU and Ten block have rolling phones (phones numbers to BARCC and the hotline are located on the phone stand).

Programming is limited to those generated by the specialized units, work assignments for the permanent population, and program assessments for those inmates getting process through reception center awaiting transfer to the facility deemed most appropriate for their needs.

Staffing consists of Massachusetts Department of Correction employees, Wellpath, Inc (medical and mental health services, contractual) and Spectrum (program specific staff).

Count on the first day of the audit was 358. At the time of the audit there were one aggressor, 107 potential aggressors, three victims, and seven potential victims.

## Summary of Audit Findings

### Standards Exceeded

**Number of Standards Exceeded: 9**

**List of Standards Exceeded:**

§115.11 - Zero tolerance of sexual abuse and sexual harassment; PREA coordinator

§115.13 – Supervision and Monitoring

§115.15 – Limits to Cross-Gender Viewing and Searches,

§115.32 – Volunteer and Contractor Training

§115.33 – Inmate Education,

§115.34 – Specialized Training: Investigations,

§115.41 – Screening for Risk of Victimization and Abusiveness,

§115.53 – Inmate Access to Outside Confidential Support Services,

§115.87 – Data Collection

### Standards Met

**Number of Standards Met: 36**

## Standards Not Met

Number of Standards Not Met: 0  
List of Standards Not Met: NA

## 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*)

103 DOC 519 Sexual Harassment/Abuse Response and Prevention Policy (SHARPP) effective March 2020 states, *The Department has zero tolerance for all forms of sexual harassment/sexually abusive behavior and is committed to preventing, detecting, and responding to any such conduct. The Department shall embrace the standards set forth by the National Prison Rape Elimination Act (Public*

Law No. 108-79) and the American Correctional Association (ACA) for all state correctional jurisdictions.

*Allegations of sexual harassment/sexually abusive behavior involving staff on staff or inmate on staff shall be covered in 103 DOC 522, Internal Affairs Unit, and 103 DOC 407, Victim Service Unit. This policy addresses the security, treatment, and management issues related to inmate victims of sexual harassment and/or abuse.*

*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. The perpetrators shall, where appropriate, be subject to administrative, criminal and/or disciplinary sanctions. The Department is committed to investigating, disciplining (up to and including termination) and referring for prosecution, staff members and inmates who engage in sexual harassment/sexually abusive behavior. The Department is equally committed to providing crisis intervention and ongoing treatment or referrals to the victims of these acts.*

*The Department resolves to:*

- *Prohibit all forms of sexual harassment and sexual activity involving inmates.*
- *Accurately identify and track perpetrators and inmate victims of sexual harassment/sexually abusive behavior;*
- *Screen and assess inmates for their risk of being sexually harassed/abused by other inmates or of sexually harassing or sexually abusing other inmates.*
- *Provide ongoing education for staff members regarding their responsibility for prevention, detection, and responding, when allegations are observed or made known to them;*
- *Provide effective and ongoing orientation for inmates regarding how to avoid victimization and how to report incidents of sexual harassment/ abuse;*
- *Provide for a thorough investigation of all reported allegations of sexual harassment/ abuse and pursue discipline and/or prosecution of perpetrators when appropriate;*
- *Provide effective short and long-term treatment for victims of sexual harassment/sexually abusive behavior.*

The agency uses the following definitions of prohibited behaviors:

#### DEFINITIONS

*Allegation*- Any incident reported to, or by, a Department staff person, contractor, volunteer, third party, or inmate, involving an inmate victim of sexual harassment/sexually abusive behavior, which incident may lead to, or is pending the outcome of, an investigation.

*At Risk*- Inmates who exhibit characteristics consistent with potential victims or with potential perpetrators of sexual harassment and/or sexually abusive behavior.

*Exigent Circumstances*- Any set of temporary and unforeseen circumstances which require immediate action in order to combat a threat to the life/safety of individuals and/or to the security or overall orderly operation of an institution.

*Gender Dysphoria (GD)*- The formal diagnosis used by psychologists and physicians to describe individuals who experience significant distress over the sex and gender they were assigned at birth.

*Inmate*- For the purposes of this policy only, any individual, whether in pretrial, non-sentenced, or sentenced status, who is confined in a correctional institution, including residents of the Massachusetts Treatment Center and patients at the Bridgewater State Hospital.

*Intersex*- An individual whose sexual or reproductive anatomy or chromosomal pattern does not appear to fit typical definitions of male or female. Intersex medical conditions are sometimes referred to as disorders of sex development.

*LGBTI*- Acronym commonly used to refer to lesbian, gay, bisexual, transgender, and intersex individuals.

*Physical Assault*- Any intentional or reckless action taken by an individual which causes injury or creates potential injury to another individual, including, but not limited to, physical contact, contact by

means of March 2020 519 - 5 an object, or contact by means of bodily fluids (e.g., spitting, throwing urine, etc.).

Prison Rape Elimination Act (PREA)- Federal legislation (Public Law No. 108-79), enacted in 2003 to provide for the analysis of the incidence and effects of prison rape in federal, state and local institutions, and to provide information, resources, recommendations, and funding, to protect individuals from prison rape.

PREA Annual Safety Assessment- A yearly assessment designed to ensure that an institution's physical plant and operational system are assessed in relation to the National Prison Rape Elimination Commission standards and the Department performance measures and policies.

PREA Committee- An institutional level staff committee comprised of individuals deemed integral to the successful implementation of the PREA process. The committee, led by the institution's PREA Manager, shall meet at least monthly to review, assess and/or discuss issues germane to the institution's PREA activities. This committee is also responsible for reviewing all sexual harassment/abuse investigations (substantiated and unsubstantiated allegations), which have been closed within the last thirty (30) days.

PREA Coordinator- An upper level Department staff person responsible for developing, implementing, and overseeing, the Department's efforts to comply with the Department of Justice (DOJ) PREA standards and with the Department's PREA related policies in all of the Department's institutions. The PREA Coordinator is the Chief of PREA Audits, Operations and Investigations.

PREA Manager- The institutional level manager responsible for implementing and monitoring the Sexual Harassment/Abuse Response Prevention Policy (SHARPP) and coordinating the institution's compliance with the PREA standards. In most circumstances the PREA Manager will be the Deputy Superintendent of Reentry.

Sexual Abuse, Inmate-on-Inmate- Sexual abuse of an inmate by another inmate includes any of the following acts if the inmate victim does not consent, is coerced into such act by overt or implied threats, or is unable to consent or refuse: (1) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight; (2) Contact between the mouth and the penis, vulva, or anus; (3) Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument; and (4) Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation.

Sexual Abuse, Staff-on-Inmate- Sexual abuse of an inmate by a staff member includes any of the following acts, with or without consent of the inmate: (1) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight; (2) Contact between the mouth and the penis, vulva, or anus; (3) Contact between the mouth and any body part where the staff member has the intent to abuse, arouse, or gratify sexual desire; (4) Penetration of the anal or genital opening, however slight, by a hand, finger, object, or other instrument, that is unrelated to official duties or where the staff member has the intent to abuse, arouse, or gratify sexual desire; (5) Any other intentional contact, either directly or through the clothing, of, or with, the genitalia, anus, groin, breast, inner thigh, or the buttocks, which contact is unrelated to official duties or where the staff member has the intent to abuse, arouse, or gratify sexual desire; (6) Any attempt, threat, or request, by a staff member to engage in the activities described in paragraphs (1)-(5) of this section; March 2020 519 - 7 (7) Any display by a staff member of his or her uncovered genitalia, buttocks, or breast, in the presence of an inmate, and (8) Voyeurism by a staff member, which is defined as an invasion of the privacy of an inmate by a staff member for reasons unrelated to official duties (e.g., peering at an inmate who is using a toilet in his/her cell to perform bodily functions, requiring an inmate to expose his/her buttocks, genitals, or breasts, or taking images of all or part of an inmate's naked body or of an inmate performing bodily functions).

Sexual Assault Investigator- A Department employee, assigned by the Superintendent and/or Chief of the Office of Investigative Services (OIS)/Internal Affairs Unit (IAU), to investigate allegations of sexual harassment/sexually abusive behavior, and who has received the required specialized training to conduct such investigations.

Sexual Assault Nurse Examiner (SANE) Program- A program which coordinates expert forensic and medical intervention in order to increase successful prosecution of sex offenders and to ensure

essential medical care for victims of sexual assault who are examined at SANE designated emergency Departments.

Sexual Harassment- Sexual harassment is defined as: (1) Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions, of a derogatory or offensive sexual nature, by one inmate directed toward another; and (2) Repeated verbal comments or gestures of a sexual nature to an inmate by a staff member, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.

Staff Member- For the purpose of this policy, the term "staff member" shall include Department employees, contract staff, and volunteers.

Staff Sexual Misconduct- Any sexual contact between an inmate and a staff member is considered sexual misconduct, even if the inmate consents; as inmates are deemed incapable of granting consent in these circumstances.

Victim Inmate Advocate- The individual assigned to meet with inmate victims of sexual harassment/sexually abusive behavior in order to educate them about the treatment and services available to them, to inform them about the status of the investigation, and to educate them about the disciplinary and classification processes pertaining to allegations of sexual harassment and sexually abusive behavior. The Victim Inmate Advocate shall be a qualified community-based representative who has been screened for appropriateness to serve in this role and received education/training concerning sexual harassment/assault and forensic examination issues in general.

103 DOC 519 Sexual Harassment/Abuse Response and Prevention Policy (SHARPP) effective March 2020, as stated above the Agency has a *PREA Coordinator who is responsible for developing, implementing, and overseeing, the Department's efforts to comply with the Department of Justice (DOJ) PREA standards and with the Department's PREA related policies in all of the Department's institutions. The PREA Coordinator is the Chief of PREA Audits, Operations and Investigations.*

The auditor was provided a memo addressed to Russel Caissie, from Carol A. Mici Commissioner, appointing him as the Massachusetts Department of Correction's PREA Coordinator effective May 20, 2019. In this memo it confirms that he will collaborate with the facility PREA Managers to ensure compliance and monitoring of the requirements of the PREA standards. The auditor was provided an organization chart that demonstrates he has direct access to the Deputy Commissioner of Career & Professional Development who has direct access to the Commissioner.

The agency PREA Coordinator and his assistant were available during the audit to provide documentation or clarification of questions the auditor posed. Interviews were conducted with the agency PREA Coordinator. He indicated he has sufficient time to manager his duties. He 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. Four meeting minutes were provided to the auditor for review. Highlights of accomplishments include the development of internal PREA assessment tool, review of camera placement, revised PREA Response cards, updates SANE sites, updates from BARCC and investigator training.

As defined above in policy, there is a PREA Manager at each facility. The PAQ indicates there are fourteen (14) PREA Managers, one for each facility that work with the PREA Coordinator to meet the mission of eliminating sexual harassment/sexual abuse towards inmates. For this facility, this person is the Deputy Superintendent of Reentry, who was re-appointed PREA Manager effective September 20, 2020 in a memo from the Superintendent. The auditor was provided the facility organization chart which confirmed that the PREA Compliance Manager/Deputy Superintendent reports directly to the Superintendent.

(c)103 DOC 519 states, *Each Superintendent shall identify an institutional PREA Manager who shall normally be the Deputy Superintendent of Reentry. This position shall be delineated on the facility organizational chart and through a letter of appointment.* An interview was conducted with the PREA Compliance Manager.

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. 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. She indicated she coordinates her facility's efforts by doing the following: ensure implementation and monitoring of the policy (SHARPP), work with the agency PREA Coordinator, attend quarterly meetings, conduct monthly PREA meetings with the institutional PREA committee to track and monitor PREA activity, conduct camera and video audits of the facility in addition to annual safety assessment and review and monitor the PREA database. Monthly meeting minutes were provided to the auditor for review. The committee has eleven members. Any concerns regarding PREA are monitored such as transgender needs, recognition of who is designated as a victim and who is designated as a predator – any concerns involving them, review of PREA investigations and acknowledgement of requirements such as notification letters, and review of risk assessments and any concerns/adjustments needed. The interview with the Superintendent confirmed that he supports the PREA process and the PREA Manager (Deputy Superintendent) as well. This support was evident throughout the audit process.

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. An updated interview occurred in November 2020, which demonstrated the same support. Those comments are noted throughout the report.

Review of the policy, training curriculum, overall observations during the audit process, and interviews with the Deputy Commissioner, PREA Coordinator, Superintendent and PREA Manager provides ample evidence to support a finding of compliance with this standard. The auditor supports finding of "Exceeds Standard" due to the frequent, effective quarterly meetings held that have demonstrated a continual drive towards exceeding the standards. Additionally, the facility conducts monthly meetings to ensure processes of preventing, detection and responding are analyzed and improved. This is more profound at this facility due to the mission of intake and reception.

## **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*)

The auditor was provided a copy of the inter-state compact agreement with other states, currently with one other state, dated 2/3/2020. 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. The PREA Coordinator confirmed there are no other contracts for the confinement of inmates with any other private or public entities.

Additionally it states, under the subheading, Prison Rape Elimination Act(PREA), *An agency which contracts for the confinement of its inmates shall adopt and comply with the national standards to prevent, detect, and respond to Prison Rape under the Prison Rape Elimination Act (PREA) (sand the parties agree to provide information to the other state, upon request, concerning the agency's compliance with the PREA standards.*

Based on the documentation provided, the auditor finds sufficient evidence to support a finding of compliance.

## 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*)

510 Security Staffing Plan (October 2019), 512 Post Orders (May 2020) and 519 SHARPP (March 2020) were reviewed by the auditor and address the requirements of this standard.

519 SHARPP supports that an annual review of institution staffing will be conducted with the Department's Deputy Commissioner and the PREA Coordinator to assess, determine and document whether adjustments are needed to any institutional staffing plans. Per this policy, this assessment will include the staffing plan, deployment of video monitoring and other technology and resources available.

510 Security Staffing Plan requires that each facility will assess for adequate levels. Specifically it states, Prison Rape Elimination Act (PREA §115.13 – "Supervision and Monitoring"): At least annually, each facility and special unit in consultation with the PREA coordinator, shall assess, determine, and document whether adjustments are needed to (a) The official staffing analysis (maintained by the Policy Development and Compliance Unit); (b) The deployment of video monitoring systems and other monitoring technologies; and (c) Resources the facility/special unit has available to commit to ensure adherence to the staffing plan. It further states, The staffing plan must provide 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: (a) Generally accepted detention and correctional practices; (b) Any judicial findings of inadequacy; (c) Any findings of inadequacy from Federal investigative agencies; (d) Any findings of inadequacy from internal or external oversight bodies; (e) All components of the facility's physical plant (including "blind-spots" or areas where staff or inmates may be isolated); (f) The composition of the inmate population; (g) The number and placement of supervisory staff; (h) Institution programs occurring on a particular shift; (i) Any applicable State or local laws, regulations, or standards; (j) The prevalence of substantiated and unsubstantiated incidents of sexual abuse; and (k) Any other relevant factors. It requires the documentation of deviations from the staffing plan and justification for the deviation as well as an annual assessment in consultation with the PREA Coordinator. The policy is

eight pages and includes attachments for specifically how staffing is to be addressed (including shift rosters, shift balance sheets, adjustment requests, and emergencies).

The Department developed the following, Facility Annual PREA Safety Assessment, which is now an established part of the agency's efforts to prevent sexual abuse and sexual harassment. The facility's last Facility Annual PREA Safety Assessment was provided to the auditor for review. It evaluates the response plan, camera placement, a proactive evaluation of area of vulnerability, review of PREA investigations and findings, review of retaliation monitoring, review of transgender/intersex placement, programming and showers, changes to the physical plant, review of contractor/vendor training and recommendations made for improvement. In accordance with policy, the facility completed an Annual Staffing Analysis. It supports the involvement of the PREA Coordinator. The PREA Coordinator confirmed that the Agency addresses the following when conducting the staffing analysis: generally accepted detention and correctional practices; any judicial findings of inadequacy; any findings of inadequacy from Federal investigative agencies; any findings of inadequacy from internal or external oversight bodies; all components of the facility's physical plant (including "blind-spots" or areas where staff or inmates may be isolated); the composition of the inmate population; the number and placement of supervisory staff; Institutional programs occurring on a particular shift; any applicable State or local laws, regulations, or standards; the prevalence of substantiated and unsubstantiated incidents of sexual abuse; and any other relevant factors.

512 Post Orders requires that Post Orders include supervisory level employees conduct and document unannounced rounds on every shift to identify and deter staff sexual abuse and sexual harassment. It further prohibits staff from alerting other staff of these unannounced rounds. Specifically, it states, Beyond the information required in the post order format, post orders shall contain the following statements: "Alerting staff members of unannounced supervisory rounds is prohibited unless the announcement is related to the operational functions of the facility."

The actual Post Orders (copy provided with pre-audit documentation) reinforce the requirement of unannounced rounds and prohibit staff from reporting when the supervisor is making rounds to other positions.

Documentation of unannounced rounds is recorded in an electronic logbook. One example of this documentation was provided with the pre-audit documents for review. Corrections officers were randomly asked if the supervisor visits daily and if they are aware of the supervisor coming to the unit before arrival. They indicated that the rounds are random, and they are not informed prior to the arrival. Interviews with two supervisors confirmed that they have a system to ensure rounds are staggered – different times conducted; different directions used.

A review of the staffing plan, search of the internet and interviews 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 annually by the Policy Development and Compliance Unit (PDCU) as well as externally by the ACA (every three years). The accreditation report was available for the auditor to review. The internal audit reports were available to review.
- (5) The facility conducts an extensive safety assessment which addresses camera placement, PREA investigations, and changes in the physical plant, as well as a detailed assessment of blind spots and camera coverage. A copy of this assessment was provided to the auditor.
- (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.

The last staffing analysis was dated December 30, 2019. It is an 8-page document that assesses staffing in a narrative review in addition to a detailed review of assignments to include programming and supervisory needs.

The auditor found the facility in compliance with the standard based on the following: review of policies; staff interviews (supervisory and correctional officers) and observations. Review of the staffing plan demonstrates a meaningful review of operations. Per the interviews with the PREA Manager, PREA Coordinator, and the Deputy Commissioner, input regarding the requirements of this standard is included in the review process. Both line staff and inmates were asked regarding the observation of and frequency of supervisory rounds. Feedback received supported that supervisory visit each area of operation at least once per shift, the visit is random, and staff are not alerted, nor alert other staff to these rounds. The Facility Annual PREA Safety Assessment is an established part of the agency's efforts to prevent sexual abuse and sexual harassment. The auditor determined that the facility/agency exceeds standard based on the proactive measures taken to review and analyze supervision in the Department.

## 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 nor heard anything to dispute that no youths are housed at this facility. This is further stated in 519 SHARPP - Pursuant to M.G.L. c. 119, § 58, the Department of Correction does not house youthful offenders. Therefore, it is concluded that this standard does not apply to this agency and therefore consider compliant with the requirements.

## 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  NA

### 115.15 (d)

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

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

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

#### 115.15 (e)

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

#### 115.15 (f)

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

#### Auditor Overall Compliance Determination

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

The PAQ indicates there have been no cross-gender strip searches, no body cavity searches in the last twelve months. In accordance with the Criminal Justice Reform Bill of 2018, inmates who identify as opposite gender (female), who are still housed at this facility (males) are afforded the ability to be strip search and pat-searched by female staff. This is not considered an opposite gender strip search.

Documents reviewed:

519 SHARPP and 506 Search Policy (August 2019), 603 Identification, Treatment and Correctional Management of Gender Non-Conforming Inmates and MCI Cedar Junction Procedure 103 DOC 750 Hygiene Standards address the requirements of this standard.

519 SHARPP specifically states, *Superintendents shall implement procedures which enable inmates to shower, perform bodily functions, and change clothing, without non-medical 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. Inmates who are housed in a dormitory setting shall be informed that*

*there is no expectation of privacy, but, in order to afford some privacy when necessary, they may change clothing in the inmate bathroom. Inmates shall be informed of this during their orientation to the institution, as well as through a posting of this requirement within the dormitory itself. G. Pursuant to 103 DOC 512, Post Orders, Superintendents shall require staff of the opposite gender to verbally announce, or have verbally announced for them, their presence when entering an inmate housing unit whenever such entry changes the status quo of the gender of staff on duty in that area. Such announcements shall also be entered into the IMS Unit Log. In the event that there is no PA system available within an inmate housing unit, announcements shall be made as the staff member goes floor-by-floor.*

506 Search Policy was updated to comply with The Criminal Justice Reform Bill of 2018. It states, *Gender Non-conforming inmates shall, have an unclothed search conducted by officers of the gender with which the inmate has identified as the search preference in accordance with 103 DOC 402 except in exigent circumstances. . . . Except for gender non-conforming inmates, cross-gender unclothed searches or cross-gender visual body cavity searches shall not be conducted except in exigent circumstances or when performed by medical practitioners. Should such a situation arise, permission from the Superintendent must be obtained prior to the search. The search must be documented in writing through a confidential incident report.* The policy further specifies when and by what authority unclothed searches and body cavity searches can be conducted.

This policy also supports the following:

*Pat Searches of Inmates:*

*General - Fully clothed searches (pat search) should be employed for the relatively quick scrutiny of an inmate's person. Searches are to be conducted professionally and respectfully, and in the least intrusive manner possible, consistent with security needs.* Additionally, the auditor reviewed the training curriculum for Unclothed searches and clothed Searches. Unclothed Search Lesson Plan further supports that opposite sex searches are not permitted, except under extraordinary circumstances. Additionally, it confirms that Gender Non-conforming inmates shall, upon request by the inmate, be strip searched by officers of the gender with which the inmate identifies, except in exigent circumstances. It further reinforces that searches or physically examining a gender non-conforming inmate for the sole purpose of determining the inmate's genital status shall not be permitted. 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. It instructs that these inmates are identified in the inmate management system or by identification card. This change is the result of the Criminal Justice Reform Bill of 2018

Fully Clothed Lesson Plan addresses that gender non-conforming inmates a professional and respectful approach shall always be taken. It further specifies that confidentiality shall be maintained in addition to respecting an individual's desire to maintain privacy. Avoid stereotypes when searching LGBTI individuals. Staff should use language and terminology that do not support stereotypes.

Unclothed Searches 5/2019 states, Gender Non-conforming inmates shall, upon request by the inmate be strip searched by officers of the gender with which the inmate identifies, except in exigent circumstances. It further elaborates that it should be conducted in private by two security personnel of the same gender. It reinforces that Searches or physically examining a gender non-conforming inmate for the sole purpose of determining the inmate's genital status shall not be permitted. 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 the contracted medical provider.

653 Identification, Treatment and Correctional Management of Gender Non-Conforming Inmates states, updated July 2019, states, *Gender non-conforming inmates shall not be searched or physically examined 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 the contracted medical provider. Additionally, if, upon admission to the Department, or at any time during an inmate's incarceration, an inmate self-identifies as being gender non-conforming, a facility-based medical provider, or qualified mental health professional assigned to the inmate, shall review the inmate's gender non-conforming status to determine whether the inmate's gender identity is sincerely held as part of the inmate's core identity. This assessment shall include a thorough record review including obtaining releases of information for external providers as well as a face to face interview. Gender identity may be verified by providing to the medical provider or qualified mental health professional evidence of the inmate's gender non-conforming status which may include, but is not limited to, medical history, mental health history, care or treatment of the gender identity, consistent and uniform assertion of the gender identity, or any other evidence that the gender identity is sincerely held.*

*The Department shall provide training to security staff regarding how to conduct gender specific pat-down searches. Pat-down searches of gender non-conforming inmates shall be conducted in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.*

All staff interviewed and asked regarding searches confirmed that they have been properly trained in how to conduct cross-gender, transgender/intersex searches. All inmate interviews confirmed that they are able to perform bodily functions, change clothes and use the shower without female staff watching them. It was reported that cross gender strip searches have not occurred. No evidence disputing this was observed or reported in interviews.

*MCI Cedar Junction Procedure 103 DOC 750 Hygiene Standards states, Inmates housed in A1, A2, A3, Blocks 1-8 and the orientation unit (OU) who have been diagnosed with gender identity disorder (GID) shall be given the opportunity to shower separately from other inmates. The inmate is required to inform the block officer that he has been diagnosed with GID and would like an alternative shower time. The block officer shall notify the unit team sergeant to confirm that the inmate has been diagnosed with GID. The inmate will be given the option to shower during the regular scheduled shower period for his assigned unit or choose the alternate shower period which is designated from 9:00 – 9:30 p.m. If the inmate chooses to shower during the regular scheduled shower period, he will not be allowed to shower during the alternative shower period. D. Inmates housed in DDU, BMU, and Ten Block that have been diagnosed with GID shall be assigned the cell closest to the shower to ensure that the inmate does not have to be escorted by other inmates on the tier.*

*Additionally, it states, Searches or physically examining a gender non-conforming inmate for the sole purpose of determining the inmate's genital status shall not be permitted. 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 the contracted medical provider.*

Staff and inmate interviews as well as demonstration while touring the facility confirm that female staffs announce their presence in the units. There are no female inmates housed at this facility. Staff interviews support that staff has been trained in how to conduct pat down searches of transgender/intersex inmates. Training curriculums address how to professionally conduct clothed and unclothed searches as well as pat down searches of transgender inmates. The auditor randomly requested training records for the first five female officers alphabetically and was provided documentation that staff have received the training on proper searches, clothed and unclothed.

During the tour, one area in the recreation weight room had a toilet that was in plain view of staff. A barrier was installed, evidence provided to the auditor, prior to the end of the onsite audit. Additionally, the auditor had concerns regarding a catwalk that afforded officers direct full view of open bar cells. The Superintendent reinforced with a memo that female staff will not be assigned to the post, avoiding



direct views of inmates naked by female staff. The auditor reviewed all monitoring cameras and found no area where an inmate would be seen in full view naked by opposite gender staff. Additionally, the auditor randomly requested training records for the first five female officers alphabetically and was provided documentation that staff have received the training on proper searches, clothed and unclothed.

Review of documentation, staff and inmate interviews, announcements during the audit, observations made during the on-site audit and review of investigations support evidence to find the facility compliant with the standard. Additionally, random training records were requested, received and reviewed that support that staff receive training on how to conduct searches in the academy. Therefore, the auditor finds there is sufficient evidence to support a finding of compliance.

## **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*)

519 SHARPP, 408 Reasonable Accommodations for Inmates (September 2019), 401 Booking & Admissions (August 2019) and 488 Institution Procedures for Telephone Interpreter Service (July 2019) address the requirements of this standard. The auditor reviewed these policies which support compliance with 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, no blind or legally blind inmates. Processes and equipment are in place to identify and address these needs when initially received, such as a video relay telephone service. Interviews with the PREA Manager and medical staff, as well as review of randomly requested documentation support

that inmates with intellectual or psychiatric disabilities are assisted by the medical and mental health staff, which identifies these needs during the intake process and from the medical record which identifies the needs upon arrival. Inmate handbook addresses how to request needs for reasonable accommodation. Disabilities are noted in the Inmate Management System (IMS). The Deputy Superintendent serves as the ADA coordinator and PREA manager which further ensures needs are met for inmates with disability, intellectual, psychiatric or speech needs. Inmate handbook addresses how to request needs for reasonable accommodation.

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 (a copy of the contract was provided to the auditor). The auditor received and viewed the inmate orientation manual and PREA brochures 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. Informational materials (poster, handbook,) are available in English, Spanish and closed caption (PREA video). There is also a contract with a certified sign language interpreter to assist when necessary.

The Inmate Orientation Manual provides a section regarding Telephonic Interpreter Services for over 140 different languages. Access to this service can be obtained through a staff member as a means of communication and assistance with Inner Perimeter Security) PREA Investigators, booking and admissions, health services, classification boards, disciplinary hearings, grievances, medical/mental health encounters.

The PAQ indicates there have been no instances of the use of 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 has occurred. Policy, staff and inmate interviews confirmed that inmates will not be relied upon to interpret unless no other options are available. Telephone Interpreter Service policy states, *Inmates shall not be used as interpreters for other inmates in any of the areas listed in paragraph 1 above. (Internal Perimeter Security ("IPS"), or Departmental investigations or questioning, Booking and Admissions, Health Services Unit ("HSU") (medical), Classification Boards, Inmate Grievances and Disciplinary Hearings.)* Staff interviews confirm that no inmate has been relied on for this.

The interview with the Deputy Commissioner (Commissioner Designee) (November 2020) further supported the following:

- Each Superintendent ensures new inmates receive gender specific verbal, written and video presentations about inmate sexual violence in English, Spanish and closed captioning.
- Superintendents ensure the intersystem transfer inmates receive verbal and written information regarding prevention/intervention, self-protection, reporting and counseling for sexual abuse/sexual harassment.
- This includes ensuring Inmate Orientation Manuals include a section that addresses these issues in accordance with policy.
- Each institution takes the requires steps to ensure inmates with any disabilities (hard of hearing/deaf, blind/low vision, intellectual, psychiatric or communication disabilities) are given an equal opportunity to benefit from the Department's efforts to prevent, detect and respond to sexual abuse/sexual harassment.

The auditor finds the standard to be in compliance due to review of the policies, PREA posters (English, Spanish), Inmate handbooks, documentation showing numerous bi-lingual staff, contract for Language Services, interview with the Manager/ADA coordinator regarding identification of needs and how they are provided accommodations, interview with medical staff/mental health staff regarding identification of inmates with physical and mental needs, Interview with the Deputy Commissioner interviews with random staff and inmates.

## 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*)

Hiring for the Department is centralized.

201 Selection and Hiring (February 2020), Memo Director of HR Feb 2019 and the Rules and Regulations Governing All Employees of the Massachusetts Department of Correction (Blue Book) provide the written authority to meet the requirements of this standard.

201 Selection and Hiring addresses the process for hiring staff, including staff with inmate contact and vendors with inmate contact. It includes physical requirements, psychological screening and background checks. Per this policy all candidates regardless of initial employment, or promotion who

may have contact with inmates shall be asked, in either written application(s) or interview(s), about whether he/she has: Engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility or other institution; 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 Been civilly or administratively adjudicated to have engaged 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. Note: Material omissions regarding such misconduct, or the provision of materially false information, shall be grounds for termination.

201.09 PRE-EMPLOYMENT BACKGROUND INVESTIGATIONS section states the following:

1. *A criminal record check is conducted on all new employees prior to assuming their duties in order to identify whether there are criminal convictions that may have a specific relationship to job performance in accordance with state and federal statutes. The criminal record check shall not be initiated until the Background Information Request and Waiver form, Attachment B of the application, is received. This record shall include comprehensive identifier information to be collected and run against law enforcement indices. If suspect information on matters with potential terrorism connections is returned on a desirable applicant, it is forwarded to the local Joint Terrorism Task Force ("JTTF") or another similar agency through the chief of the Office of Investigative Services. The criminal record check results may result in an adverse employment decision for the applicant. Every applicant shall be provided with a copy of the criminal history record in the Department's possession.*
2. *In the event that the applicant believes that the information on his/her criminal record is in need of correction, several procedures for correction exist.*
  - a. *If the applicant believes that a case is opened on his/her record that should be marked closed, the applicant may contact the office of the Commissioner of Probation Department at the court where the charges were brought and request that the case(s) be updated.*
  - b. *If the applicant believes that a disposition is incorrect, he/she should contact the Chief Probation Officer at the court where 201-27 February 2020 the charges were brought or the CARI Unit at the Office of the Commissioner of Probation and report that the court incorrectly entered a disposition on his/her criminal record.*
  - c. *If the applicant believes that someone has stolen or improperly used his/her identity and were arraigned on criminal charges under his/her name, he/she may contact the Office of the Commissioner of Probation CARI Unit or the Chief Probation Officer in the court where the charges were brought. In some situations of identity theft, he/she may need to contact the Department of Criminal Justice Information Services to arrange to have fingerprints analysis conducted.*
  - d. *If there is a warrant currently outstanding against the applicant, he/she will need to appear at the court and ask that the warrant be recalled. This cannot be done over the telephone.*
3. *All positions shall have a background investigation completed only for the candidate selected by the hiring authority prior to submission of the hiring package to the DHR. If there is not a certified investigator available, DHR shall be notified to complete the background investigation. The hiring authority shall also review the background investigation information prior to submission.*
4. *Candidates for all direct care positions as set forth in 103 DOC 201.05(8) shall have an initial interview with a certified background investigator. At the initial interview, the investigator shall have the candidate complete the Background Information Request and Waiver Form (if not previously submitted); complete an Initial Interview Check List, Attachment P, to ensure that the applicant meets all entrance requirements; review the personnel application form; complete fingerprinting of the applicant and copy all relevant documentation.*
5. *The background investigation shall include, but not be limited to, the following: a criminal records check 201-28 February 2020 (local police departments, Massachusetts Board of Probation, National Criminal Information Center ("NCIC") National Law Enforcement Telecommunications System ("NLETS") (if applicable), Registry of Motor Vehicles, FBI fingerprints, and Warrant Management System ("WMS") check); past employment check (minimum of five (5) years, if applicable) (Attachments Q and R), including the investigator's best efforts in contacting prior institutional*

*employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse; character reference check (minimum of one (1) reference) (Attachment S) and all original documentation pertaining to applicable entrance requirements. Copies of the original documentation relative to the entrance requirements shall be made and the originals returned to the applicant.*

*6. Department employees under consideration for promotion shall also be subject to a Massachusetts Board of Probation and WMS check.*

*7. A full criminal records check and fingerprinting shall be conducted regarding all contractors as described in 103 DOC 201.09 (1).*

Attached to this policy is the Commonwealth of Massachusetts Application for Employment Candidates must sign agreeing to the following: *I certify under the pains and penalties of perjury that all statements made by me on this application are true and complete to the best of my knowledge and that I have withheld nothing, which, if disclosed, would affect this application unfavorably. I understand that any false statements, omissions or answers made by me on this application can result in my immediate termination.*

An additional sheet entitled PREA Inquiries has the following: *In accordance with National Standards to Prevent, Detect and Respond to Prison Rape, 28 CFR § 115.17, a correctional facility must make the following inquiries on this page of any applicant for employment in a position that may have contact with inmates and all contractors who may have contact with inmates. In accordance with 28 CFR § 115.17 (g), any material omission in answering the following questions or the provision of materially false information, shall be grounds for disqualification or for termination if discovered after hire. 1. Have you ever engaged in or been accused of engaging in sexual harassment in any prior employment? 2. Have you resigned from or quit any job following allegations that you engaged in any form of sexual misconduct? 3. Have you engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility or other institution? 4. Have you been convicted of engaging or attempt 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? 5. Have you been civilly or administratively adjudicated to have engaged in the activity described above? The signature requires the following confirmation: I understand that I have a continuing, affirmative duty to immediately report in writing to the DEPARTMENT any such misconduct during the time I am employed by/contract with or volunteer for the Massachusetts Department of Correction. I further understand that failure to do so may result in disciplinary action up to and including discharge.*

Memo Director of HR Feb 2019 directly supporting all aspects of the standards. It supports that the agency will consider sexual harassment before hiring. Memo Director of HR Feb 2019 illustrates the requirement of a background check beginning the fourth year prior to the fifth year of the requirement.

Rules and Regulations Governing All Employees of the Massachusetts Department of Correction (Blue Book) has a requirement of acknowledgement of a continuing duty to report behavior, including behavior outside the job indicating that termination may result for omission. Staff sign for receipt.

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. Specifically, the following:

- All newly hired staff have had a background check
- *Background Information Request and Waiver Form ensure that prior institutional experience can and will be, including background checks and reference checks.*

- 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.
- 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 will be provided upon receipt of a signed release allowing for this.

In order to substantiate compliance, the auditor requested and received documentation demonstrating the following:

- Background checks, confirmation that the required questions in subpart (a) are asked of potential new hires and promotional candidates, and documentation that candidates can be terminated for omission of material facts or false information provided.
- Promotional staff are asked the questions in subpart (a) (two examples reviewed)
- Documentation of a background check within the last five years and signature of receipt of the blue book (imposing a continuing duty to report) for five randomly requested staff.

The Auditor found the standard to be in compliance based on the following:

- 201 Selection and Hiring (February 2019)
- Memo Director of HR Feb 2019
- Rules and Regulations Governing All Employees of the Massachusetts Department of Correction (Blue Book)
- Interview with Deputy Commissioner
- Request to review reference background checks for candidates with prior institutional experience
- Randomly selected employees, last name with D, F, M, S and T demonstrating background check and confirmation of receipt of the Blue Book
- Review of two personnel files newly hired state and contractual employees

## 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*)

The PAQ report that this facility has not had any modifications or expansions or upgrades to the monitoring system in the previous twelve months. The interview with the Superintendent confirmed this as well. However, he did indicate the following minor modifications have occurred: Enlarged windows in VR attorney rooms, creating greater visibility, Relocation of the Disciplinary Office, more visible area, Relocation of the Medical Records to a more visible area. He further confirmed that some video monitoring has been added since the last PREA audit.

703 Design Criteria and Planning Guidelines (December 2019) 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 up the Department's ability to protect inmates from sexual abuse. Per the interview with the Superintendent, there have been no expansions or modifications to this facility.

703 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.

The agency was given a grant to purchase/upgrade video coverage in its facilities. Over 100 cameras were added to the agency. Per the interview with PREA Coordinator, they were issued based on priority of need. re added to the agency video monitoring system.

The interview with the Deputy Commissioner indicated that collaborative meetings with the Division of Resource Management, PREA Division, Facility Head, PREA Manager, Fiscal Services and Grant Managers are held regarding camera installation, maintenance enhancements, DOJ PREA Guidelines and Standards, available Fiscal Resources and Grant Funding planning. The agency requires each facility to conduct vulnerability assessments which includes a review of PREA allegations. Additionally, the Inner Perimeter Investigators (IPS) team, middle and upper management monitors cameras regularly. Based on this accumulation of information, priority is given to placing cameras in vulnerable areas to ensure that blind spots are covered throughout the facility.

Documentation showing review of video monitoring with consideration for the PREA requirements was provided. This is conducted annually at each facility in accordance with the Facility Annual PREA Safety Assessment (Attachment IV of 519 SHARPP). 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 monitoring system was also reviewed during the audit process to gauge views of inmate/offender living areas; no concerns were noted. Per the interview with the Deputy Commissioner, priority of placement of cameras is decided by the result of the vulnerability assessment (agency level) and by PREA incident reviews (facility level).

Based on observations, review of policy and interview with the PREA Coordinator, the auditor finds sufficient evidence to support a finding of compliance.



## 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 No youth housed at this agency.
- 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 evidentiarily or medically appropriate?  Yes  No
- Are such examinations performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) where possible?  Yes  No
- If SAFEs or SANEs cannot be made available, is the examination performed by other qualified medical practitioners (they must have been specifically trained to conduct sexual assault forensic exams)?  Yes  No
- Has the agency documented its efforts to provide SAFEs or SANEs?  Yes  No

#### 115.21 (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 PAQ indicates there have been no forensic medical exam during the previous twelve months as a result of a sexual abuse allegation. 519 SHARPP, Wellpath 57.00 Sexual Assault/PREA Compliance and IPS Field Manual (Confidential) 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. It states, Immediate Response to Sexually Abusive Behavior Allegation *Each institution shall maintain an Emergency Response Plan and sexual assault response kits containing the items necessary to facilitate their response to sexual assault allegations. Response plans shall be maintained in the Shift Commander's office and the IPS office, and shall contain the following actions:*  
(1) *Separate alleged victim and perpetrator;*

- (2) Immediately notify the Shift Commander;
- (3) Secure the scene, if warranted, for subsequent crime scene processing;
- (4) Ask the victim and ensure that the perpetrator does not take any action that would destroy physical evidence (e.g., washing, eating, drinking, brushing teeth, changing clothes, etc.);
- (5) Receive the reporter's information on what took place. Make note of the behavior and appearance of the inmate(s) involved and identify any witness(es) to the incident;
- (6) Immediately escort the inmate victim to the institution's Health Services Unit for emergency medical care/mental health treatment;
- (7) Enter detailed information on an IMS incident report before the end of the shift.
- (8) Remain on shift until debriefed by the Sexual Assault Investigator.

**B. Medical Response to Sexually Abusive Behavior Allegation:**

*Upon completion of the medical and mental health evaluation, the Superintendent/designee, in consultation with medical and mental health personnel, shall determine whether a referral to an outside hospital with a rape crisis unit and SANE Program services is warranted. . . . If the determination is made that the inmate victim should be sent to an outside hospital, and if the inmate victim consents, the inmate victim shall be transported to an outside hospital with a SANE Program where he/she shall receive essential medical intervention, including preventative treatment for HIV, sexually transmitted diseases, and pregnancy, if appropriate. . . . Evidence collected at an outside hospital involving allegations of inmate-on-inmate sexually abusive behavior shall be retained by the transporting officer in accordance with 103 DOC 518, Inner Perimeter Security Team (IPS). In instances where the alleged perpetrator is a staff member, the outside hospital staff shall notify the State Police who shall transport any evidence collected to the State Police Crime Lab for analysis.*

Additionally, this policy indicates that community-based victim advocacy services are offered to the inmate as part of the SANE examination at the outside hospital/rape crisis center. *Any contracted advocate or community-based advocate assigned shall be coordinated by the Director of the Victim Services Unit. The advocate assigned shall accompany and support the victim through the forensic medical examination process and investigatory interviews, informational meetings, and referrals. Victim Inmate Advocate- The individual assigned to meet with inmate victims of sexual harassment/sexually abusive behavior in order to educate them about the treatment and services available to them, to inform them about the status of the investigation, and to educate them about the disciplinary and classification processes pertaining to allegations of sexual harassment and sexually abusive behavior. The Victim Inmate Advocate shall be a qualified community-based representative who has been screened for appropriateness to serve in this role and received education/training concerning sexual harassment/assault and forensic examination issues in general.*

*Wellpath 57.00 4/29/2020* further ensures that sexual assault victims shall be evaluated and treated at an outside medical facility for forensic evidence collection when clinically indicated and/or when it is still viable.

IPS Field Manual (Confidential) has a section dedicated to sexual abuse response. The auditor reviewed the confidential information and found that it provides detailed information on ensuring a uniform evidence protocol which maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions.

In accordance with the agency procedure, the Massachusetts State Police (MSP) addresses evidence and processes it at the State Police Crime Lab. The auditor found on the MSP website the following: *The Massachusetts State Police (MSP) has a zero-tolerance policy toward sexual abuse and sexual harassment of any kind towards any detainee while in State Police custody. All detainees have equal rights to safety, dignity, and justice and have the right to be free from sexual abuse and sexual harassment. Lock up facilities under their supervision have been certified compliant with PREA which further reinforces compliance with the standard. Additionally, there is a MOU with the Massachusetts Department of Corrections and the Massachusetts State Police confirming the MSP's commitment*

*To handle sexual abuse investigations, when they may be involved, in compliance with the PREA standards.*

IPS Training Guide confirms the following: Facility investigators are trained in conjunction with the Massachusetts Department of Correction Sexual Assault Investigation Training. Evidence Protocol and Forensic Medical Examinations are based from the Sexual Assault Investigator Certification Curriculum, Municipal Police Training Committee.

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 a current Memo of Understanding (MOU) with the Massachusetts State Police (MSP) requesting that they comply with the investigation requirements of the PREA. 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.

There is a current contract with Boston Area Rape Crisis Center (BARCC), renewed January 2020. BARCC provides services to victims during the forensic exam, if requested by the victim. An interview was conducted with the Director for BARCC. He confirmed, that in accordance with Massachusetts State Law, staff from BARCC receives a minimum of 40 hours of training to assist victims of sexual abuse in addition to a background check. He verified that these staff would accompany the victim if requested. He stated that in the last year his staff responded to the hospital on four occasions to provide this service. 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 (not presently due to the coronavirus pandemic), therefore exceeding the standard.

As noted in the policy, PREA kits are maintained to help ensure evidence is uniformly and appropriate collected. The auditor observed the kit and the list of contents while touring the facility.

A review of completed investigation from the previous twelve 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 provide victim advocate services.

The auditor finds that the facility/agency warrants a finding of "Exceeds standard" based on the MOU 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*)

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. 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. It affirms that a thorough investigation of all reported allegations of sexual harassment/abuse are investigated up to and including pursuit of discipline and/or prosecution. 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). This policy is available on the Massachusetts Department of Correction's website. 522 Internal Affairs Policy is also posted on the website.

519 SHARPP indicates that the Superintendent or designee is responsible for ensuring that the PREA database documents the new investigation and records appropriate information. Specially, it has the following investigative response requirement: *INVESTIGATION OF SEXUALLY ABUSIVE/HARASSING BEHAVIOR COMPLAINTS* The Department shall ensure that all available means are used to fully investigate allegations of sexual abuse and/or sexual harassment. Within seventy-two (72) hours of the reported incident, the site's March 2020 519 - 25 Superintendent will review and assess all reported allegations of sexual harassment/sexually abusive behavior and determine the appropriate course of action.

Additionally, the interview with the Deputy Commissioner confirmed that the agency will ensure that all allegations are investigated by a facility certified Sexual Assault Investigator, or other authorized outside law enforcement agency who properly investigates all allegations of sexual abuse or harassment. Cases are referred to the District Attorney's office from criminal prosecution via the agency Prosecution Unit. The process in place is to ensure all allegations are immediately reported to the Superintendent who initiates the involvement of the investigators if the nature of the allegation permits. Otherwise the Watch Commander initiates the investigation while simultaneously notifying the Superintendent.

The Massachusetts State Police addresses evidence and processes it at the State Police Crime Lab. The auditor found on the website the following: *The Massachusetts State Police (MSP) has a zero-tolerance policy toward sexual abuse and sexual harassment of any kind towards any detainee while in State Police custody. All detainees have equal rights to safety, dignity, and justice and have the right to be free from sexual abuse and sexual harassment. Lock up facilities under their supervision have been certified compliant with PREA which further reinforces compliance with the standard.* As stated, there is a MOU with the Massachusetts Department of Correction and the Massachusetts State Police confirming the MSP's commitment to handle sexual abuse investigations, when they may be involved, in compliance with the PREA standards.

Policies noted above support the requirements of the standard. One completed investigation from the previous 12 months was 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 (Superintendent and investigators) 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*)

216 Training and Staff Development, dated September 2020, states, 216.13 PRISON RAPE ELIMINATION ACT (PREA) TRAINING All employees shall receive training on PREA. The employee shall receive additional training if the employee is reassigned from an institution that houses only male inmates to an institution that houses only female inmates, or vice versa, as well as training on the



*requirement of 103 DOC 652 and 103 DOC 653 regarding the care and treatment of Gender Non-Conforming inmates. Employees with inmate contact shall receive 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.*

A review of the training curriculum supports compliance as the required topics are addressed: Dynamics of Sexual Abuse and harassment in confinement; PREA Law, Standards and Policy, Staff/Agency Responsibility (prevention, detection, response), Staff Sexual Misconduct, professional boundaries, communication with LGBTI inmates, and mandated reporting. Additionally, common characteristics of a perpetrators, anticipated response of the victim (red flags), the inmates right to be free from sexual abuse and sexual harassment while incarcerated, zero tolerance towards any form of sexual abuse or sexual harassment, definitions of sexual abuse and sexual harassment behaviors, and the inmate's right to be free from retaliation is addressed. 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 (80% is passing out of 10 questions). A copy of the quiz was provided to the auditor to review. 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. All staff is trained in the same requirements that mental and medical staff are required to receive. The training plan for training year 2020 demonstrates that PREA Refresher is a required course for all staff to take; staff is given two hours of training credit for completion. The interview with the training officer supported a coordinated plan to ensure that all staff is trained within the required training calendar year. All staff interviews demonstrated knowledge of the requirements for this law and that the training covers the required topics.

Based on the analysis of the evidence – policy, training curriculum, interviews with staff and the training coordinator, documentation demonstrating staff training, and responses received during the random staff interviews, the auditor finds sufficient evidence to support a finding of compliance with this standard.

## **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*)

There facility reports that they currently have 152 volunteers and sixty-seven (67) contractual staff. 519 SHARPP has the following definition: Staff Member- For the purpose of this policy, the term “staff member” shall include Department employees, contract staff, and volunteers.

216 Training and Staff Development states *Volunteers and contractors who have contact with inmates shall be trained on their responsibilities under the sexual abuse and sexual harassment prevention, detection, and response policies and procedures. The level and type of training provided shall be based on the services they provide and level of contact they have with inmates, but all volunteers and contractors who have contact with inmates shall be notified of the agency’s zero-tolerance policy regarding sexual abuse and sexual harassment and informed how to report such incidents. Appropriate documentation shall be maintained indicating they have received the training.*

Lesson Plan Outline dated January 2017, reviewed and approved March 26, 2019. The auditor was able to verify that this plan is taught to new employees, contractors and volunteers by randomly reviewing volunteers’ files, which were made accessible to the auditor. Additionally, the auditor randomly interviewed five contractual staff who confirmed they receive the training. The purpose statement of the lesson plan supports understanding individual and facility roles in preventing, detecting and responding, to sexual abuse and harassment as well as the establishment of a zero-tolerance culture. Objectives include the following: understanding sexual abuse and harassment in confinement; increased understanding of PREA; identification of actions and their role in preventing, detecting, and responding to PREA incident; and a review what is considered inappropriate behavior between staff and inmates.

### Contractual staff

Full time contractual staff receives the same training as Department staff. The agency is required by policy 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.

### Volunteers

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. Additionally, 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).

They sign a contractor/volunteer acknowledgment form which 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. An example recertification quiz and signed acknowledgment was provided to the auditor with the pre-audit documentation. 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 persons when entering behind the secure gates, even when escorted, are informed of the law prior to entering the secure area of the facility, and sign acknowledging this (as was required of the auditor).

## 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*)

The PAQ reports that 322 inmates were received that received the orientation book at intake, 322 received additional information at orientation.

The following policies support the requirements of the standard: 519 SHARPP, March 2020 and Policy 401 Booking & Admissions, August 2019. Additionally, the Inmate Orientation Manual, January 2020 provides information educating the inmate population.

519 SHARPP states,  
Inmate Education

*(1) Each Superintendent shall ensure that new inmates to the Department receive gender specific verbal, written and video presentations about inmate sexual violence in English and/or Spanish. Videos shall also be available in closed caption for the deaf and hard of hearing. All written orientation materials about sexual harassment/sexually abusive behavior shall be provided in English and/or Spanish. Other limited or non-English speaking inmates shall receive translation into their own language(s) via the telephonic interpreter service. When a literacy problem exists, a staff member shall assist the inmate in understanding the material.*

(2) All Superintendents shall provide intrasystem transfer inmates with verbal and written information regarding prevention/intervention, self-protection, reporting sexual harassment/ abuse, treatment, and counseling.

(3) All inmate orientation manuals shall include a section that addresses these issues in accordance with 103 DOC 401, Booking and Admissions.

(4) Each institution shall take the necessary and appropriate steps to ensure inmates with disabilities (including, but not limited to, inmates who are hard of hearing or deaf, have low vision, are blind, or those who have intellectual, psychiatric, or communication disabilities), have an equal opportunity to participate in, or benefit from, all aspects of the Department's efforts to prevent, detect, and respond to any and all allegations of sexual harassment and/or sexual abuse.

Policy 401 Booking & Admissions (August 2019) further supports compliance by stating, *Intake and Orientation Checklist Attachment A includes Staff/Inmate Sexual Misconduct (PREA), Telephonic Interpreter Service, Institution Rules and Regulations, Review of the Inmate Orientation Handbook, Question and Answer Period in addition to other topics. Placed in the inmates six-part folder. Signed by the inmate.*

*Attachment II PREA Orientation Sexual Misconduct/Staff sexual Misconduct Intake Checklist*

*PREA Brochures English and Spanish*

*PREA posters*

*At intake, the specific language 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 sexual abuse, sexual harassment, and retaliation. It is available in Spanish as well.*

401 Booking and Admission requires that the Superintendent at each correctional institution shall ensure that written procedures are developed for the reception of new commitments and admissions which shall provide for, but not be limited to, the following: *The telephonic interpreter service information shall be provided during the standard reception process. If an inmate requests an interpreter or staff believe the use of an interpreter is necessary, the telephonic interpreter service shall be utilized in accordance with 103 DOC 488.00 Telephonic Interpreter Service. Staff shall document the use of the service in the IMS booking/intake comments section of the Inmate Data screen.*

*The following shall be included in all correctional facilities' inmate orientation manuals: a. All PREA orientation information contained within attachment II.*

*Telephonic interpreter service information.*

*In addition to the required orientation topics, all institutions shall be required to provide training for the inmates during the orientation sessions that covers, but is not limited to, the following:*

*1. How to avoid becoming a victim while incarcerated. 2. Treatment available for victims of sexual abuse. 3. How to report sexual misconduct incidents.*

*All new arrivals to an institution shall be housed in an orientation unit or in housing areas that provide for intensive sight and sound supervision before and during their initial orientation to that institution.*

*The Superintendent or the Deputy Superintendent may consider an alternative placement for security, programmatic or medical reasons.*

## **PRISON RAPE ELIMINATION ACT (PREA) SEXUAL MISCONDUCT/STAFF SEXUAL MISCONDUCT**

*A) The Prison Rape Elimination Act, otherwise known as PREA, is a Federal statute which was passed unanimously by the United States Congress and signed into law in 2003 by President George W. Bush.*

*The Act supports the elimination, reduction, and prevention of sexual assault and rape in correctional systems across the country. This includes federal, state, county facilities and all other law enforcement detention facilities.*

*The Massachusetts Department of Correction is committed to enforcement of the PREA law. We have a zero-tolerance policy for any incidence of sexually abusive behavior by a staff member, vendor, volunteer or inmate in any facility and we afford a number of internal and external methods for victims and third parties to report abuse or suspicions of abuse. All reports/allegations of sexual abuse or sexual threats are taken seriously and investigated in a thorough and objective manner. The Department will aggressively pursue the discipline and prosecution of any perpetrator of sexual abuse. Victims and reporters of sexual assault will be afforded ongoing medical, mental health, and victim services and will be protected from retaliation.*

*All new admissions to the Department of Correction will be scheduled for mandatory orientation to review this information and be educated on important issues. Additionally, refresher information shall be made available as will updated information following any intra-system transfer.*

*B) The institution PREA Manager is the Deputy Superintendent of Reentry.*

*C) The Department of Correction and ADD FACILITY NAME strive to create and maintain a safe institutional environment for both inmates and staff through the prevention, detection, and appropriate response to Sexually Abusive Behavior. Inmates are forewarned that our workforce is highly integrated in terms of the gender of our staff. As such, staff members of the opposite sex may be present and conducting rounds in housing units at any and all times. To ensure the highest level of privacy, inmates are encouraged to be appropriately dressed at all times. Should an inmate need to change clothing, the inmate bathroom or other private area should be used to do so. An announcement shall be made to signify that an opposite gender staff person is present in your housing unit. These announcements will be made only whenever there is a status change to alert you.*

*D) Inmates are responsible for familiarizing themselves with Department of Correction's orientation material on sexual abuse prevention and intervention and 103 DOC 519, SEXUAL HARRASMENT/ABUSE RESPONSE AND PREVENTION POLICY (SHARPP).*

*E) The Department has established multiple internal ways for inmates to privately report sexual abuse and sexual harassment or 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 Department hotline has been designated within the inmate telephone system. The number is 508-422-3486 and shall allow for universal and unimpeded access by all inmates within the Department. It is not recorded and is available to all inmates without using their PIN numbers. Additionally, this facility has a site specific IPS hotline INSERT # HERE, which may be utilized. Other methods to report include the inmate grievance system, staff access periods, the facility PREA manager, and inner perimeter security staff members.*

*The Boston Area Rape Crisis Center (BARCC) provides inmates with access to outside victim advocates for emotional support services related to sexual abuse. This abuse does not need to have occurred during incarceration in order for you to seek support from BARCC. An inmate can contact BARCC either in writing or via use of a dedicated hotline. All calls are free of charge from any inmate telephone. Hours of operation are seven days a week from 9:00 a.m. to 9:00 p.m. These confidential support services can be provided in English and in Spanish.*

*BARCC PREA HOTLINE 99 Bishop Allen Drive Cambridge, MA 02139 (844) 774-7732*

*BARCC is NOT a third party entity to which you should report allegations of abuse. BARCC's purpose is to provide confidential support to victims.*

*Inmates may also report sexual abuse or harassment to external public or private agencies via correspondence or use of the inmate telephone system. Calls to "privileged" numbers including*

universally approved legal assistance phone numbers (i.e., Prison Legal Services), pre-authorized personal attorney telephone numbers, a foreign national's pre-authorized telephone number to his/her consular officer or diplomat, pre-authorized clergy telephone numbers and pre-authorized licensed psychologist, social worker and/or mental health professional telephone numbers are not subject to telephone monitoring and are not recorded. Inmates shall be permitted to send confidential information or correspondence to the DOJ PREA auditor in the same manner as if they were communicating with legal counsel. Prison Legal Services is identified as an external advocacy group that acts upon the interests of inmates housed in the Massachusetts Department of Correction. Prison Legal Services can be reached at 617-482-2773 and is considered a privileged number. The State Prisoner Speed Dial Number is \*9004#

The Department shall accept and investigate verbal, written and anonymous third-party reports of sexual abuse and harassment. Third party entities may report abuse to the Department Duty Station at 508-422-3481 or 508-422-3483. These reports will be immediately forwarded to the proper Superintendent or Division head.

Should you report of an allegation that you were sexually abused while confined at another facility or agency, the Superintendent of this facility shall notify the appropriate Superintendent or Chief Administrative Officer of the agency where the alleged abuse occurred no later than 72 hours after receiving the allegation. The incident site is responsible for the investigation of that matter. F) All acts of sexually abusive behavior between an inmate and a Department employee, contractor, or volunteer or an inmate and an inmate, regardless of consensual status, are prohibited; and the perpetrator shall be subject to administrative, criminal, and/or disciplinary sanctions. The Department of Correction is committed to investigating, disciplining and referring for prosecution, Department employees, contractors, volunteers, and inmates who engage in sexually abusive behavior. The Department is equally committed to providing crisis intervention and ongoing treatment or referrals to the victims of these acts.

G) If the investigation reveals that an inmate has knowingly made false allegations or made a material statement which he/she, in good faith could not have believed to be true, the Department may take appropriate disciplinary action.

H) All Department employees, contractors, and volunteers are responsible for contributing to the prevention of sexually abusive behavior perpetrated by staff on inmates or by inmates on inmates as outlined in 103 DOC 519, Sexual Harassment/Abuse Response and Prevention Policy (SHARPP).

I) All allegations and incidents of inmate-on-inmate or staff on-inmate sexually abusive behavior shall immediately be reported by Department employees, contractors and volunteers in accordance with 103 DOC 519 Sexual Harassment/Abuse Response and Prevention Policy (SHARPP). The Shift Commander shall ensure that the Superintendent is immediately notified. Failure of any Department employee, contractor or volunteer to report these allegations may result in disciplinary action, up to and including termination.

Ways to avoid becoming the victim of sexual abuse:

1. Be aware of situations that make you feel uncomfortable. Trust your instincts.
2. If something feels wrong about the environment or situation you find yourself in, leave the area.
3. Don't let your manners get in the way of keeping you safe. Don't be afraid to say "NO!" "Stop it now," or "Get lost!"
4. Walk and stand with confidence. Many rapists choose victims who look like they won't fight back or are emotionally weak. Keep your head up and don't avoid eye contact.
5. Avoid talking about sex and casual nudity. These things may be viewed as a come-on or make another inmate believe you have an interest in a sexual relationship.
6. Do not accept any food, clothing, or other gifts from other inmates. Being in debt to another inmate may lead to the expectation that you will repay the debt with sex.
7. Avoid secluded areas like closets, storage areas, stairwells, isolated showers or unoccupied bathrooms. Position yourself in plain view of staff members.
8. If you are being pressured for sex, talk to a staff member immediately.

9. *If you become aware that another inmate is being sexually abused, report it to a staff member. Next time it could be you.*

10. *Beware of inmates who offer to protect you. Protection frequently has a cost.*

11. *Do not give out information about your family, friends, or financial support.*

12. *Do not buy large quantities of canteen items.*

Inmate Management System (IMS) has/will have information noted if an inmate has been identified as deaf, blind, hearing and/or visually impaired in the Medical Restrictions Screen.

Receipt of the handbook is documented. Two examples of inmate orientation signature form and notation in the IMS were provided to the auditor with the pre-audit documentation, one Spanish example. Additionally, the auditor requested and received documentation supporting orientation attendance for the last fifteen inmates to arrive at the facility.

#### Observations:

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 (Duty Station hotline and BARCC) are stenciled on the wall by the phones and are highly visible. Recently, the phone numbers were placed on the back of all identification cards.

As this is the intake facility, orientation is enhanced. Orientation is held in the facility auditorium weekly. The auditor interviewed the CPO who oversees orientation. The video from JDI is shown to all participants. Until the pandemic, a representative from BARCC would personally speak to every group, educating them on what BARCC provides. Inmates sign acknowledging their attendance. Two examples of orientation attendance were provided to the auditor with the pre-audit documentation.

The auditor has conducted all PREA audits in this state for the past six years. This Department has been actively educating inmates regarding PREA requirements since 2012; (reported to the auditor by staff and random inmate interviews) therefore the auditor finds it credible that all inmates have received PREA education and additionally 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.

Summary of inmate interview responses: The inmates articulated the process as described in policy, awareness of the phone numbers, and knowledge of the posters providing information. Little to no prompting was required to ascertain this information during these interviews.

Review of gender specific videos and other written materials addresses that inmates have a right to be free from retaliation for reporting such incidents. All inmate interviews indicated they are aware of this aspect of their rights under the law.

Based on review of the policy, interviews with the booking officer, interview with the CPO, review of documentation regarding intake/orientation and interviews with the inmates, the auditor finds the standard to be compliant, exceeds compliance. Materials are provided within 24 hours, typically immediately upon arrival. Continuous information includes posters and phone numbers visible to the inmates. The quality of the inmate responses verified to the auditor that the process used at this facility/agency is effective.



## 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 facility reports that they have nine staff trained, including the SSI. The agency in the Internal Affairs Unit has seven staff trained. The Inner Perimeter Security (IPS) team conducts these investigations unless the situation warrants the intervention by the IAU.

519 SHARPP have the following definition:

*Sexual Assault Investigator- A Department employee, assigned by the Superintendent and/or Chief of the Office of Investigative Services (OIS)/Internal Affairs Unit (IAU), to investigate allegations of sexual harassment/sexually abusive behavior, and who has received the required specialized training to conduct such investigations.*

Training and Education confirms,

*The Division of Staff Development and the PREA Coordinator shall 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. In addition, specialized training shall be provided for those employees who respond to and investigate PREA incidents.*

The auditor was provided a copy of the training curriculum for review. It is a 40-hour course. It addresses 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. The auditor reviewed training documentation that demonstrated that all IPS members have received the specialized training in addition to the general PREA training provided to all staff. As the Internal Affairs Unit (IAU) is involved in these investigations, the auditor requested and received documentation that these staff have received the specialized training regarding sexual abuse investigations in addition to general PREA training.

Two investigators were interviewed from this facility. The investigators explained that 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.

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. However, it is exceptionally rare that an investigation involving sexual abuse will require the intervention of the State Police. Investigators from the Office of Investigative Services, Massachusetts State Police are also certified in the training. As noted, their lock up operations are PREA certified compliant, therefore, the investigators have received the specialized training.

A finding of compliance is provided based on the review of policy, training curriculum, interviews with the investigators, review of the investigation and training records. A finding of exceeds compliance is based on the extensive training received by investigators who investigate all allegations of sexual abuse and sexual harassment.

## **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*)

The facility reports there are fifty-four (54) medical/ mental health staff. At this agency, these services are provided through a contract with Wellpath, Inc.

216 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.

Specifically, Volunteers and contractors who have contact with inmates shall be trained on their responsibilities under the sexual abuse and sexual harassment prevention, detection, and response policies and procedures. The level and type of training provided shall be based on the services they

provide and level of contact they have with inmates, but all volunteers and contractors who have contact with inmates shall be notified of the agency's zero tolerance policy regarding sexual abuse and sexual harassment and informed how to report such incidents. Appropriate documentation shall be maintained indicating they have received the training.

Training Curriculum PREA reviewed and approved March 2019, was assessed by the auditor. The training curriculum provided to all staff, including medical and mental health staff, also includes the following: (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.

Additionally, Wellpath, Inc has its own training regarding PREA, the auditor has reviewed the curriculum. In addition to the required topics it addresses other aspects of how to address events related to prevention, detection and response to sexual abuse/sexual harassment. Specifically, it addresses how and when to report. Wellpath, Inc also has a Wellpath, Inc PREA Coordinator. The interview with the medical and mental health supervisors confirmed that they ensure all of their staff have received this training. Supplemental training records requested and received demonstrate this.

The facility indicated in the PAQ that forensic exams are not conducted at the facility. This was verified by the interview with the medical staff.

Interviews 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. The Training Officer confirmed that medical and mental health staff receive the same training as other staff, this is coordinated between the training office and the administrative assistant. Records were provided showing the process Wellpath uses to ensure their staff are trained by Wellpath and the facility. All staff were recorded to have received the training except two which were documented to have until the end of 2020 to complete.

Review of the policy, extensive review of the training curriculum, interviews with the medical and mental health staff and documentation provided gave the auditor 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 There are no inmates housed in this agency for the sole purpose of civil immigration.

#### 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*)

The PAQ reports that 322 inmates entered into the facility in the previous twelve months who were assessed for their risk of sexual victimization and/or sexual abusiveness within seventy two (72) hours; 322 inmates remained at least thirty (30) days and were reassessed for their risk of sexual victimization and/or sexual abusiveness within thirty days of arrival.

The following policies support compliance with the requirements of this standard: 519 SHARPP, and 650 Mental Health Services.

519 SHARPP states under Classification Response to Sexual Harassment/ Sexually Abusive Behavior Allegations

*The Superintendent shall ensure that an inmate's risk level is reassessed upon a referral, request, incident of sexual abuse, or receipt of additional information that bears on the inmate's risk of sexual victimization or abusiveness. A new Inmate Housing Risk Assessment is to be completed on the inmate predator and/or inmate victim. The new Inmate Housing Risk Assessment will be utilized 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.*

650 Mental Health Services (May 2020) supports the following process:

### *Admissions*

#### *A. Mental Health Screen*

*Each inmate admitted to a facility by a new commitment or by an Inter-System or an Intra-System Transfer shall receive a mental health screen (Attachment 1) by a qualified health care professional (e.g., a physician, physician assistant, nurse, or nurse practitioner) upon admission. The qualified health care professional shall refer the inmate for further evaluation by a Qualified Mental Health Professional if: 1. The mental health screen is positive for SMI, developmental disability or acute mental health symptomatology; or 2. The inmate has a history of sexual abuse victimization or may be at risk for sexual abuse victimization while incarcerated; or 3. Screening for risk of victimization and abusiveness: 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: i. Whether the inmate has a mental, physical, or developmental disability; ii. The age of the inmate; iii. The physical build of the inmate; iv. Whether the inmate has previously been incarcerated; v. Whether the inmate's criminal history is exclusively nonviolent; vi. Whether the inmate has prior convictions for sex offenses against an adult or child; vii. Whether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming; viii. Whether the inmate has previously experienced sexual victimization; ix. The inmate's own perception of vulnerability; and x. Whether the inmate is detained solely for civil immigration purposes. e. 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. f. 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. g. 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. h. 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.*

A review of the risk assessment tool confirms that includes the following regarding vulnerability: (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; and (9) The inmate's own perception of vulnerability. There are no inmates housed at this facility due to being detained solely for civil immigration purposes. It additionally assesses if there was a history of protective custody placement. To determine violence/predatory identifiers, the tool assesses the following: (1) history of institutional sexual abuse on others, (2) history of domestic violence; (3) gang affiliation; (4) history of extortion or assaults on others in prison and (5) history of violent offenses. As illustrated to the auditor, the Booking staff member completes a portion of the assessment and medical staff/mental health staff completes the remainder of screen. Mental health staff interviews and observations confirmed the following: Inmates are verbally asked if they perceive themselves as gay, lesbian, bisexual, transgender, intersex, or gender nonconforming by mental health staff; mental health staff also make a subjective determination regarding this and note it on the risk assessment.

A reference guide has been developed for staff completing the risk assessment to ensure consistency in responses. The auditor received and reviewed the guide. A victim determination if the answer to question one is yes. A potential victim designation is determined if the inmate answers yes to four or more identifiers. An aggressor determination is given if the answer to the first question on the violence/predatory questions is yes. A potential aggressor designation is given if the answer to two or more abusive identifiers is yes.

Correctional Program Officers (CPOs) can complete the 30-day review and any warranted reassessments however this is typically completed by mental health. During the audit, the auditor was able to observe an interview in which the 30-day re-evaluation for the risk assessment was conducted. To help ensure warranted re-assessments are completed, A post incident checklist has been developed with an area to initiate the process for a reevaluation of the the risk screen after a sexual abuse incident review.

Mental health staff indicated they are aware that if an inmate exhibits behavior that may change the risk assessment, a referral would be made to the PREA Manager. The Auditor finds this credible due to the at least weekly meetings held with medical and mental health staff to address high risk inmates, and the daily meetings held with the executive team.

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 as the PREA Manager stated that she can run a query to ensure this through the IMS.

Policy states that inmates are not to be disciplined for refusing to answer. Staff/inmate interviews support this to be compliant. Randomly requested inmates confirmed they do not believe they would have been disciplined for not answering.

As confirmed by interviews with the PREA Manager and CPO information is maintained in a computerized format (IMS) 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.

The auditor requested and received fifteen (15) risk assessments for the last 15 inmates to arrive, 24 hour and 30-day review. Each example demonstrated compliance with the standard.

The facility reported that no inmates were disciplined for refusing to answer the questions. Inmate interviews confirmed they did not believe they would be disciplined if they didn't answer. The auditor found no reason to dispute this during the audit process.

Overall analysis:

Documentation was 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.

Compliance has been determined by staff interviews, inmate interviews, and review of randomly selected risk assessments. for Exceeds standards based on immediate screening process and the database designed to provided 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*)

The following policies affirm compliance with the requirements of this standard: 652 Identification, Treatment and Correctional Management of Gender Non-Conforming Inmates, 519 SHARPP, and 420 CMR Classification.

420 Classification supports that the goal of classification is to promote public safety and the responsible reintegration of inmates. To achieve this, the agency uses objective methods for assessing custody and programming needs.

519 SHARPP states, *The Department shall utilize an internal risk housing tool to assess inmates for their risk of vulnerability or predatory behavior in accordance with 103 DOC 401, Booking and Admissions.*

*(1) Inmates at risk or who have a history of sexual harassment/abuse victimization:*

*(a) All inmates entering a Department institution, and upon subsequent transfers between institutions, shall be screened within twenty-four (24) hours by a qualified medical professional for a history of, and the risk for, sexual harassment/abuse victimization, in accordance with 103 DOC 630, Medical Services. If the Department learns that an inmate is subject to a substantial risk of imminent sexual harassment/abuse, it shall take immediate action to protect that inmate. Inmates identified through self-reports or medical reports as having a history of sexual harassment/abuse victimization, and/or who are at risk of being a victim of inmate sexual harassment/abuse, shall be referred to a mental health clinician for assessment, monitoring, and counseling. Such reports shall be documented in the appropriate IMS screen and a confidential incident report shall be written to the Superintendent to ensure that appropriate steps (e.g., investigation, housing assignment, etc.) are taken.*

*(b) Once an inmate is identified as having been a victim, or as being at risk for such, the Superintendent shall carefully assess the immediate needs and housing assignment of that inmate. Where double bunking is necessary, the staff members making assignments shall rely upon standard guidelines for cell matching, and upon good judgment, in selecting a cellmate for the inmate, keeping in mind the inmate's victimization history and/or the inmate's "at risk" status. Similar consideration shall be given for placement of an inmate in a dormitory setting.*

*(c) Inmates at high risk for sexual harassment/abuse victimization shall not be placed in involuntary segregated housing unless an assessment of all available alternatives has been made, and there has been a determination that there is no available alternative means of separating the inmate from likely abusers. If an institution cannot conduct such an assessment immediately, the institution may hold the inmate in segregated housing for less than twenty-four (24) hours while completing the assessment.*

*(2) Inmates with a history of, or who are at risk for, inmate predatory sexual harassment/sexually abusive behavior:*

*(a) All inmates entering a Department institution, and upon subsequent transfer between institutions, shall be screened within twenty-four (24) hours of their arrival by a qualified medical professional for a history of sexual harassment/sexually abusive behavior in accordance with 103 DOC 630, Medical Services. Inmates identified through self-reports or medical reports as having a history of sexual harassment/sexually abusive behavior shall be documented in the appropriate IMS screen and a confidential incident report written to the Superintendent to ensure that appropriate steps (e.g., investigation, housing assignment, referral to treatment program) are taken.*

*(b) Booking officers and the Criminal History Records Information (CHRI) staff shall also screen inmates for a history of sexual harassment/sexually abusive behavior by conducting a review of criminal record information, (e.g., judgment and commitment orders; 6-part record and board of probation records). Inmates identified as having a history of sexual harassment/sexually abusive behavior not previously identified, shall be documented in the appropriate IMS screen and a confidential incident report shall be submitted to the superintendent.*

*(c) The Department shall utilize the internal housing risk placement screen on IMS to help identify inmates with a risk of sexual harassment/sexually abusive behavior. Those inmates identified shall be referred to appropriate institutional programming. The program referral shall be made part of the inmate's individualized program plan and shall be monitored in accordance with 103 DOC 653, Identification, Treatment and Correctional Management of Gender Non-Conforming Inmates. 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.*

*(d) Upon learning that an inmate has been identified as a predator, or is at risk for such, the Superintendent shall carefully assess the immediate needs and housing assignment of the inmate. Where double bunking is necessary, the staff members making assignments shall rely upon standard guidelines for cell matching, and upon good judgment, in selecting a cellmate for the inmate, keeping in mind the inmate's predatory history and/or the inmate's "at risk" status. Similar consideration shall be given for placement of an inmate in a dormitory setting.*

#### *Classification Response to Sexual Harassment/ Sexually Abusive Behavior Allegations*

*The new Inmate Housing Risk Assessment will be utilized 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.*

652 Identification, Treatment and Correctional Management of Inmates Diagnosed with Gender Dysphoria and 653 Identification, Treatment and Correctional Management of Gender Non-Conforming Inmates ensures that inmates who are transgender and intersex inmates given the opportunity to shower separately from other inmates.

#### **652 IDENTIFICATION, TREATMENT AND CORRECTIONAL MANAGEMENT OF GENDER NON-CONFORMING INMATES (August 2019) MANAGEMENT AND PLACEMENT**

*At the time of their commitment, sentenced individuals are court ordered into the custody of the Department of Correction, and are transported to the Department's reception center for males or females based upon the court's order.*

*Once committed to the Department of Correction, placement decisions, classification, and other programming assignments for gender non-conforming inmates shall be considered on a case-by-case basis. Factors which shall be considered include, but are not limited to, the inmate's stated request, whether a placement would ensure the inmate's health and safety, and/or whether the placement would present management or security problems.*

*Placement and programming assignments for each gender non-conforming inmate shall be reassessed at least twice each year in order to review any threats to safety experienced by the inmate.*

*A gender non-conforming inmate's own views with respect to his or her own safety shall be given serious consideration. 1. Initial Classification and Placement: For all new commitments, an IMS Housing Risk Factor Assessment is completed which examines issues of risk of victimization and risk of violence/predatory behavior/abusiveness. Should an inmate identify as gender non-conforming, the additional process of the verification of the gender non-conforming status shall commence as outlined in 103 DOC 653.04. The findings of the verification of the gender non-conforming status process, along with the Housing Risk Factor Assessment, shall inform housing, work, education, and program assignments. A. Bi-Annual Review: An Internal classification status review and Housing Risk Factor Assessment will be completed at least every six months for all gender non-conforming inmates in accordance with 103 CMR 420, Inmate Classification. In preparing for the status review, medical staff, mental health staff, and other security personnel will collaborate to assess appropriate programming*

*and placement within the agency for each gender nonconforming inmate. The review shall assist with decisions regarding housing, work, education, and program assignments and shall focus on individual safety. Recommendations shall be considered on a case by case basis, and shall consider whether placement will ensure the inmate's health and safety, and whether the placement would present management or security issues. Security level, criminal and discipline history, medical and mental health assessment of needs, vulnerability to sexual victimization and potential of perpetrating abuse based on a history of being sexually or physically abusive, shall all be considered. The inmate's own views with respect to his or her own safety shall also be given serious consideration. This bi-annual review shall include a review of any threats to safety experienced by the inmate.*

*All gender non-conforming inmates shall be provided notice by the facility PREA Manager or Deputy Superintendent of Reentry that they shall be given the opportunity to shower separately from other inmates. An appropriate schedule shall be included within said notice.*

*Gender non-conforming inmates will not be housed in dedicated facilities, units, or wings solely on the basis of their gender nonconforming 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.*

Staff is dedicated full time to making housing and programing decisions, in addition to a housing assignment committee. The auditor interviewed the housing assignment officer. Her duties include ensuring the best placement based on all information available but including the risk assessment findings. She confirmed that this information is used in determining where to place the inmate to best prevent victimization or aggressive behavior.

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.

Placement of transgender inmates in a male or female facility initially 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. Interviews with the PREA Manager and PREA Coordinator confirmed that this assessment will occur. As reflect in the Criminal Justice Reform Act of 2018, the Department has a detailed process for allowing inmates to self-identify as a transgender. Upon verification by medical or mental health staff at the reception facility, the inmate is then afforded property, hygiene and grooming consistent with their identification. This additionally includes continuation of hormonal therapy and a thorough security review to determine if placement in a facility in which the gender of the inmate identifies. Per the interview with the PREA Coordinator, the Department has moved an individual deemed genetically male into the female facility in the past eighteen months. The interview with the PREA Manager confirmed that showers would be established, per the standard, 6-month evaluations would be conducted and the transgender/intersex inmate's own views would be given serious consideration regarding housing, work assignments and programming.

Appropriate correctional staff reviews transgender/intersex classification twice annually. For gender dysphoric inmates this is mental health, for gender non-conforming this is the PREA Manager. There were no transgender/intersex inmates at the facility during the on-site visit; therefore, documentation of this assessment was not available to be analyzed. Transgender/intersex views are given serious

consideration regarding housing and jobs. Processes are in place to provide separate shower times. This was confirmed by staff and documentation.

Massachusetts Department of Correction does not have a dedicated facility for transgender/intersex inmates. The auditor has visited all facilities in this state system; throughout the audit observations, interviews and documentation, no evidence revealed otherwise.

Compliance of this standard was determined by observation, inmate/staff interviews and documentation.

## 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*)

The PAQ reports that no inmates have been placed in involuntary restrictive housing due to being at high risk for sexual victimization.

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 after an assessment of all available alternatives has been made and no other option is available.

CMR 423 Restrictive Housing (March 2019) states,

*423.07: Establishment of Restrictive Housing Units*

*The Commissioner may designate an area or areas within maximum and medium security correctional institutions for Restrictive Housing consistent with the purposes set forth in 103 CMR 423.00.*

*423.08: Restrictive Housing Placement and Limitations on Placement in Restrictive Housing*

*The Superintendent of a state correctional facility or designee may authorize the confinement of an inmate in Restrictive Housing if the inmate's retention in general population poses an unacceptable risk: (a) to the safety of others; (b) of damage or destruction of property; or (c) to the operation of a correctional facility. Before placement in Restrictive Housing, an inmate shall be screened by a Qualified Mental Health Professional to determine if the inmate has a serious mental illness (SMI) or to determine if Restrictive Housing is otherwise clinically contraindicated based on clinical standards adopted by the Department of Correction, with said standards adopted in consultation with the Department of Mental Health, and the Qualified Mental Health Professional's clinical judgment. Additional mental health procedures and treatment attendant to Restrictive Housing placement shall*

comport with the requirements set forth in 103 DOC 650: Mental Health Services. Additionally, prior to or immediately upon placement in Restrictive Housing, the inmate shall be screened by medical staff. Screening by medical staff shall include a determination of any medical contraindications to Restrictive Housing, including the existence of a permanent physical disability that precludes placement in Restrictive Housing, in which the inmate shall not be placed in Restrictive Housing. This screening shall be documented and placed in the inmate's medical record. This shall be documented on the RHU Inmate Information screen.

#### 423.09: Restrictive Housing Reviews

The fact that an inmate is lesbian, gay, bisexual, transgender, queer or intersex or has a gender identity or expression or sexual orientation uncommon in general population shall not be grounds for placement in Restrictive Housing. . .

Transfer to Awaiting Action Status, an inmate who is classified to a Department protective custody unit/Special Housing Unit may be placed in Restrictive Housing for reasons unrelated to protective custody needs for a period that shall not exceed 45 days, unless the Commissioner personally approves a further period or periods of not more than 15 days.

(b) Inmates with Safety Needs. Upon verification that an inmate requires separation from general population to protect the inmate from harm by others, the inmate shall not be placed in Restrictive Housing, but shall be placed in a housing unit that provides approximately the same conditions, privileges, amenities and opportunities as in general population; provided however, that the inmate may be placed in Restrictive Housing for no more than 72 hours while suitable housing is located. An inmate shall not be held in Restrictive Housing to protect the inmate from harm by others for more than 72 hours, unless the Commissioner or a designee certifies in writing: 1. the reason why the inmate may not be safely held in the general population; 2. that there is no available placement in a unit comparable to general population; 3. that efforts are being undertaken to find appropriate housing and the status of the efforts; and 4. the anticipated time frame for resolution. A copy of the written certification shall be provided to the inmate. Such inmates shall be reviewed thereafter by the Placement Review Committee every Monday, Wednesday and Friday. The written certification by the Commissioner or designee, as described above, shall be completed after each Placement Review. (d) Inmates in Restrictive Housing for Other Reasons. Inmates e.g., pending investigation, pending classification, pending transfer, or refusing housing placement. Inmates in Restrictive Housing for any other reason shall be reviewed by the Placement Review Committee every Monday, Wednesday and Friday.

Review of policy, interviews with staff, the interview with the PREA Manager, and observations provided the auditor with sufficient evidence to find the facility compliant with this standard. During the audit process, the auditor was able to conclude that the facility will use are several housing unit options separating inmates at risk without placing them in restrictive housing to address immediate needs such as placement in another housing unit, or transfer to another facility. It has been reported that no high-risk victim has had to be transferred to a facility with restrictive housing for their protection in the past 12 months; the auditor found no reason to dispute this.

## 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 solely detained 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*)

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. 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. 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. 519 SHARPP also indicates that staff will/can write a confidential incident report to the Superintendent.

The Inmate Orientation Handbook provides detailed information to the inmate population regarding multiple avenues for reporting sexual abuse/harassment. It specifically states,

- There are multiple internal ways for inmates to report privately regarding sexual abuse, sexual harassment or retaliation and staff neglect or violation of responsibilities that may have contributed to such
- A Department hotline that allows for universal access, not records, no pin required
- A facility site specific hotline
- Use of the grievance system
- Staff access hour
- Massachusetts State Police
- The Department accepts verbal, written and anonymous, or third-party reports
- This includes allegations that occurred at another facility
- All reports will be address immediately

During the tour, the auditor observed the phone number for the Duty Station and IPS hotline stenciled on the wall by the inmate housing unit phones. The auditor was able to get through to the person at the Duty Station when testing the number from an inmate phone.

The Massachusetts State Police (MSP) is the agency who will accept reports regarding allegations of sexual abuse or sexual harassment, including anonymously, and will forward to the Agency immediately. It addressed immediate transmission and availability to report anonymously. Email confirmation of this agreement from the MSP was provided to the auditor. The Inmate Orientation handbook reflects this information regarding reporting outside the agency. The interview with the PREA Manager confirmed this also.

As stated in the narrative, nineteen investigations were reviewed. Two were the result of a call to the hotline, one was a third-party allegation, one was received from outside the facility, and the remainder were received from mental health, most during the intake process. Many were allegations of sexual

abuse that occurred several years ago (information revealed during the intake process). Additionally, the PREA Manager provided the auditor with copies of incident reports generated from intake interviews where inmates divulged prior incidents of sexual abuse. Dates, times, location and perpetrators were vague and therefore a formal investigation was not initiated, but the allegations are documented.

Policy, interviews with the PREA Manager, staff and review of the completed investigations and incident reviews support compliance that staff will accept verbal, written, anonymous and third-party reports of sexual abuse or harassment and taking immediate action. 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 PAQ indicates that there have been no grievances filed relating to sexual abuse in the previous twelve months.

The grievance process at this agency is described as follows (based on review of policy, interview with the grievance coordinator and interviews with the inmates):

491.13: Sexual Abuse Grievances states,

(1) *Time limits established in 103 CMR 491.14(1) shall not apply to grievances alleging sexual abuse.*

(2) *Inmates shall not be required to exhaust informal processes with regard to allegations of sexual abuse.*

(3) *Inmates shall submit grievances regarding sexual assault/abuse in accordance with 103 CMR 491.13(4). An inmate shall not be required to submit their grievance to a staff member who is the subject of the grievance.*

(4) *All grievances containing allegations of sexual assault/abuse for inmate on inmate allegations will be investigated in accordance with 103 DOC 519: Sexually Abusive Behavior Prevention and Intervention. Staff on inmate allegations will be addressed in accordance with 103 DOC 522: Internal Affairs Unit, and/or 103 DOC 519. Additionally, whenever a grievance pertaining to sexual abuse has been referred for investigation, inmates will be notified of the action taken within the grievance decision. A separate response from the Commissioner's designee will be provided upon conclusion of the indicated investigation.*

(5) *Allegations of sexual abuse reported by third parties, including, but not limited to, other inmates, staff members, family members, attorneys, and outside advocates, shall be addressed in accordance with 103 DOC 519: Sexually Abusive Behavior Prevention and Intervention and/or 103 DOC 522: Internal Affairs Unit. The Department of Correction shall document if an inmate declines to have the request processed on his or her behalf.*

(6) *Whenever an inmate files an emergency grievance alleging that he or she is at a substantial risk of imminent sexual abuse, the grievance shall be responded to within 48 hours of receipt. Emergency grievance appeals shall be responded to within five calendar days of receipt.*



*Responding staff should take into consideration weekends and holidays and shall respond on the business day prior to the weekend and/or holiday when necessary to ensure timely response. No timeframe extensions shall be authorized for grievance and grievance appeal responses for sexual abuse grievances.*

*(7) During non-business hours, inmates shall report allegations of sexual abuse verbally to institution staff, who shall promptly report the allegations to the Shift Commander. Upon receipt of information that an inmate has been sexually abused, the Shift Commander shall ensure that proper protocol is followed in order to protect the potential victim and preserve any evidence.*

*(8) The absence of a grievance response after six months shall be deemed a denial of the grievance.*

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. The form provides directions on how to file an emergency grievance. 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. 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. He indicated that he receives approximately twelve grievances a month. He confirmed there have been no grievances relating to PREA. In the event one was received, he ensures it was investigated by facility investigators or Department investigators. This would occur by submitting a confidential report to the Superintendent.

Based on the observations, interviews with random inmates and the grievance coordinator, 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*)

401 Booking and Admissions, states the following in Attachment II: *The Boston Area Rape Crisis Center (BARCC) provides inmates with access to outside victim advocates for emotional support services related to sexual abuse. This abuse does not need to have occurred during incarceration in order for you to seek support from BARCC. An inmate can contact BARCC either in writing or via use of a dedicated hotline. All calls are free of charge from any inmate telephone. Hours of operation are seven days a week from 9:00 a.m. to 9:00 p.m. These confidential support services can be provided in English and in Spanish.*

*BARCC is NOT a third-party entity to which you should report allegations of abuse. BARCC's purpose is to provide confidential support to victims.*

407 Victim Service Unit (July 2020) further supports that services are available to inmates. It states, *407.21 Prison Rape Elimination Act (PREA) The Department is committed to preventing sexually abusive behavior.*

*All sexual acts between an inmate and a Department employee, contractor or volunteer, or an inmate and an inmate, regardless of consensual status are prohibited and subject to administrative and criminal and/or disciplinary sanctions. The Department is committed to investigating, disciplining, and*

*referring for prosecution, Department employees, contractors, volunteers, inmates who engage in sexually abusive behavior.*

*The Department is equally committed to providing crisis intervention and ongoing treatment to the victims of these acts. The Department inmate advocate shall provide information through the investigative process. It is the responsibility of the PREA Manager to notify the Director of the VSU when the services of the inmate advocate are necessary.*

*VSU services include but are not limited to: A. meeting with the inmate victim; B. providing information to the inmate of his/her rights; C. providing information to the inmate on the status of the case; D. maintaining communication with the inmate during the Department investigation; E. coordinating with the District Attorney if a referral is made. The VSU shall work with the assigned advocate from the District Attorney's office;*

This information is also in the inmate manual. Under the telephone section, it notes the full number, the speed dial number and that it is not one of the ten numbers of the phone list. Under Attachment II, it addresses the name of the organization, the services provided, the telephone number, the address, notation that it is NOT a third party reporter, telephone calls are free of charge, it is a privileged number and therefore does not require a pin and is not monitored or recorded, It is available from 9:00am to 9:00pm when phones are available, services are available for any sexual abuse or sexual harassment concerns the inmate has, and are available in English and Spanish. The auditor tested the phone number from an inmate phone and was able to access this service.

A contract has been signed with the Boston Area Rape Crisis Center (BARCC). It was renewed in January 2020. A toll-free hotline is available to all inmates from 9:00am to 9:00pm, as well as an address. This phone number and address is provided in the inmate orientation manual. Per the interview with staff from BARCC, A phone tree system is used to route the calls to the next available counselor. Additionally, as noted when making a test call from an inmate phone, services can be provided for English, Spanish and for deaf (TTY) inmates (Video Relay System). This information is noted in the recorded introductory statement (as heard by the auditor when testing the phone number from an inmate phone).

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. A follow up phone conversation was conducted on October 15, 2020.

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 in the inmate orientation manual. They are also informed through this manual 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 (verified with the interview with BARCC staff). Per this interview and review of state law, 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. Additionally, this interview confirmed that 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. Calls to BARCC for 2018 totaled 469 from this facility, 70 letters. This is a robust increase in activity from the previous year. Calls for 2019 rose to over 500 and over 100 letters. The BARCC representative believes he is receiving repeat callers as well as new users, both he deemed encouraging.

Telephones at the facility are available to inmates in a reasonable number and location. 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.

The phone number is stenciled by the phone. Within the last year, the phone number is now located on the back of the inmate identification card. All inmates' interviews confirmed knowledge of the phone number and approximately 80% knew what service was provided. 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.

A finding of exceeds standard is given due to the following: the personal presentation at orientation, the continued meetings with the PREA Coordinator and PREA Managers, the contract, the phone numbers located on the identification cards and the demonstration that efforts are effective as evidence by the increase in mail and phone calls.

## 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*)

519 SHARPP address the requirements of this standard. It states, *The Massachusetts Department of Correction has incorporated and enhanced a third-party reporting system which includes a form for the public to access through the Massachusetts Department of Correction (MADOC) [www.mass.gov/doc](http://www.mass.gov/doc). At this site, released inmates, a family member or loved one of an inmate will have access to report a PREA allegation.*

Visiting room posters provide information on how to report on behalf of their family. A copy was provided to the auditor with the pre-audit documentation and the auditor observed the poster during the tour of the facility.

The auditor viewed the information which is available on the Massachusetts DOC website for third-party reports and noted on PREA posters in the lobby and visiting rooms. The auditor verified the information to file a third party PREA allegation by sending a test complaint which was immediately acknowledged back to the auditor by the PREA Coordinator. It is available at <https://www.mass.gov/how-to/report-a-prea-allegation>.

Policy, the agency website, posters in the visiting room and review of the investigations provide ample evidence for the auditor to support a finding of compliance.

## 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*)

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.

Wellpath, Inc Sexual Assault/PREA Compliance policy requires the following of their 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.*

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, so therefore it does not apply to incarcerated individuals.

Medical staff, mental health staff and Spectrum staff (contractual programming) are aware of the requirement for reporting and limitations on confidentiality as indicated in the interviews with them. This is addressed with the inmates at their facility intake interview, written consents (mental health and Spectrum) and in the Acknowledgement of Receipt of Care signed by inmates for receipt of the "Access to Care information which specifically addresses that medical and mental health staff are mandatory reporters regarding any knowledge of sexual abuse and sexual harassment.

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*)

519 SHARPP address the requirement of this standard. It states, *If the Department learns that an inmate is subject to a substantial risk of imminent sexual harassment/abuse, it shall take immediate action to protect that inmate.*

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 saw behavior, they felt warranted the inmate's removal from the area to evaluate the situation. It was relayed by staff that 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 facility reports that this did not occur in the past twelve months. The Superintendent confirmed he and his staff would take immediate action to protect the inmate prior to being harmed. 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*)

519 SHARPP addresses this standard, stating the following: *Upon a Superintendent's receipt of an allegation that an inmate was sexually harassed/abused while confined at another institution or agency, the Superintendent shall notify the appropriate Superintendent or Chief Administrative Officer of the agency where the alleged abuse occurred. Such notifications shall be provided as soon as possible, but no later than seventy-two (72) hours after receiving the allegation and shall be documented in writing. The Superintendent or agency office receiving such notification shall ensure that the allegation is investigated and shall provide periodic updates and a copy of the final investigation report to the notifying institution which currently houses the alleged inmate victim.*

The PAQ indicated that twenty allegations were received from other facilities regarding an incident that occurred at this facility; five allegations were received at this facility that was forwarded to the facility where the incident occurred. Documentation for all allegations received from other facilities and sent to other facilities were randomly reviewed during the audit. It illustrated that it was sent from the Superintendent to the Superintendent/Jail Administrator the same day the information was received. A review of the investigations revealed that the reports received from other facilities were investigated.

Interviews with the Superintendent and Deputy Commissioner both confirmed awareness of the requirement to report the incident to the facility head directly from the Superintendent within seventy-two hours (72).

As the policy supports the requirements of the standard, the documentation demonstrated compliance and the interview with the Superintendent all provide evidence to confirm compliance with this standard.

## 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:

The following policies address the requirements of this standard: 519 SHARPP and 216 Training and Staff Development.

519 SHARPP states, *Immediate Response to Sexually Abusive Behavior Allegation*

*Immediate Response to Sexually Abusive Behavior Allegation*

*Each institution shall maintain an Emergency Response Plan and sexual assault response kits containing the items necessary to facilitate their response to sexual assault allegations. Response plans shall be maintained in the Shift Commander's office and the IPS office, and shall contain the following actions:*

- (1) Separate alleged victim and perpetrator;*
- (2) Immediately notify the Shift Commander;*
- (3) Secure the scene, if warranted, for subsequent crime scene processing;*
- (4) Ask the victim and ensure that the perpetrator does not take any action that would destroy physical evidence (e.g., washing, eating, drinking, brushing teeth, changing clothes, etc.);*
- (5) Receive the reporter's information on what took place. Make note of the behavior and appearance of the inmate(s) involved and identify any witness(es) to the incident;*
- (6) Immediately escort the inmate victim to the institution's Health Services Unit for emergency medical care/mental health treatment;*

216 Training and Staff Development states, *Volunteers and contractors who have contact with inmates shall be trained on their responsibilities under the sexual abuse and sexual harassment prevention, detection, and response policies and procedures. The level and type of training provided shall be based on the services they provide and level of contact they have with inmates, but all volunteers and contractors who have contact with inmates shall be notified of the agency's zero tolerance policy regarding sexual abuse and sexual harassment and informed how to report such incidents.*

The facility reported that during the previous twelve months, no incident warranted a first responder necessitating evidence preservation. No allegation of sexual abuse required an immediate response as required by this standard. Review of the investigation confirmed this. 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. Additionally, the agency has developed a response card that has been issued to all staff to help ensure the proper steps are followed in the event of a sexual abuse allegation. Random staff interviewed shared this card with the auditor.

Based on policy, staff interviews and overall observations during the audit, the auditor finds sufficient evidence to support a finding of compliance.

## 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*)

Institutional procedural SHARPP specific to this facility is a seven-page document with specific information on how the facility should respond to sexual abuse incidents. It includes first responder duties (as required by the standard) medical and mental health duties, preservation of evidence, investigator notification, use of the PREA kits, notifications ( a specific list was developed) and a check sheet to ensure all required elements have been addressed. It demonstrates compliance with this standard. Staff interviews demonstrate that staffs 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. Therefore, there is sufficient evidence to support a finding of compliance.

## 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*)

230 Disciplines and Terminations addresses this standard in addition to 522 Internal Affairs Unit and 519 SHARPP.

519 SHARPP states, *If a staff member is accused of sexual harassment/ sexually abusive behavior with an inmate, the Superintendent shall request a Category II investigation by submitting an Investigative Services Intake Form pursuant to 103 DOC 522, Internal Affairs Unit, and shall notify his/her respective Assistant Deputy Commissioner. The accused staff member may be placed by the Superintendent or Department Head on “no inmate contact status” or “detached with pay status” by the Commissioner pending an investigation of the matter. Contractors who are accused of sexual harassment/sexually abusive behavior may be removed from the institution until the investigation is completed. All volunteers who are accused shall be barred from entering any correctional institution until the investigation is completed.*

230 Disciplines and Terminations (December 2019) *An employee with collective bargaining tenure who has been suspended, demoted, discharged, transferred/reassigned may appeal the disciplinary action imposed by filing a grievance in accordance with the grievance procedure in his/her collective bargaining agreement. Department Policy 103 DOC 270, Labor Relations - Employee Grievance Procedures should also be consulted for information regarding this procedure.*

522 Internal Affairs Unit states, CONFIDENTIALITY OF INTERNAL AFFAIRS

*A. All investigations, inquiries, or complaints shall be afforded the highest possible degree of confidentiality.*

*B. In order to ensure that the individual rights of employees who are the subject of an Internal Affairs investigation are protected, all materials relevant to an investigation of staff misconduct shall be processed and stored in a manner that prevents unauthorized access.*

*C. Investigators, administrators, witnesses, and other parties shall not discuss any aspect of an on-going investigation with any persons without proper approval of the Superintendent/Department Head/Division Head, Chief of OIS, or Deputy Commissioner of Administrative Services.*

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 interview with the Deputy Commissioner confirmed that collective bargaining contracts do not prohibit the facility from removing alleged staff. For these reasons, the auditor finds sufficient evidence to support 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*)

The PAQ reports that there have been no incidents of retaliation during the previous twelve months.

519 SHARPP addresses the requirements of this standard. It specifically states the following:

#### *Retaliation*

*Retaliation by any staff member against another employee, contractor, volunteer or inmate, for reporting an allegation of sexual harassment/ sexually abusive behavior, for assisting in making such a report, or for cooperating in the investigation of such an allegation, regardless of the merits or disposition of the allegation, is strictly prohibited. Any such occurrence is a very serious matter that may result in discipline, up to and including termination.*

*The Department protects all inmates and staff members who report sexual harassment/abuse, or who cooperate with sexual harassment/abuse investigations, from retaliation by other inmates or staff members.*

*The Department employs multiple protective measures, including, but not limited to, housing changes or transfers for inmate victims or abusers, and removal of alleged staff members or inmate abusers from contact with victims. The Department also provides emotional support services for inmates or staff members who fear retaliation for reporting sexual harassment/abuse or for cooperating with an investigation.*

*Superintendents shall ensure the following:*

- For a period of at least 90 days following a report of sexual harassment/abuse, IPS staff shall regularly meet with and monitor the conduct and treatment of inmates or staff members who reported the sexual abuse, and of inmates who were reported to have suffered sexual abuse, to see if there are*

*claims and/or changes that may suggest possible retaliation by inmates or staff members, and shall act promptly to remedy any such retaliation.*

- IPS staff should monitor any inmate disciplinary reports, housing changes, program changes, or negative performance reviews or reassignments of staff members.*
- Monitoring shall continue beyond 90 days if the initial monitoring indicates a continued need. In the case of inmates, such monitoring shall also include periodic status checks.*
- The documentation of monitoring must be recorded using Attachment V and maintained in the investigation file in the PREA database.*

*If any other individual who cooperates with an investigation expresses a fear of retaliation, the Department shall take appropriate measures to protect that individual against any form of retaliation. The Department's obligation to monitor shall terminate if the investigation determines that the allegation is unfounded.*

Attachment V of the SHARPP policy provides the format to ensure proper monitoring is occurring. It affords prompts to the thirteen requirements to note the type of monitoring (disciplinary reports, program changes, housing changes, performance evaluations, face to face, review staff re-assignments) in addition to allow the review to make narrative comments. There is a box for conclusion when the monitoring is terminated.

The process 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 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).

One example of the completed process was provided with the pre-audit documentation. The auditor reviewed copies of retaliation monitoring when reviewing the investigation files. As indicated in policy, 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. This includes periodic status checks. 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. It was acknowledged that if further monitoring was needed, it would be extended past the 90 days. The investigator confirmed this process in his interview. 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 who participate in a sexual harassment/abuse allegation be free from fear of retaliation. Additionally, The interview with the Superintendent confirmed the following: The department employs 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 inmate or staff who fear retaliation for reporting sexual abuse, sexual harassment or for cooperating with investigations.

The interview with the Deputy Commissioner confirmed that the agency has an established monitoring process/form that carries the authority of policy. It includes reviewing video, telephone, mail, disciplinary reports, interview, staff assignments and any staff discipline. He confirmed that this monitoring will be documented for 90 days, longer is deemed necessary.

Monitoring staff and inmates who reported sexual abuse or harassment is conducted utilizing periodic status checks and 90-day monitoring by the institutions IPS Team and PREA Committee. Disciplinary reports, housing/program changes, negative performance reviews, attendance and reassignments of staff are all taken into consideration during this monitoring period.

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*)

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. See comments regarding 115.43. The PAQ indicates that restrictive housing has not been used to place an inmate who alleges sexual abuse. Review of records as well as interviews with the Superintendent as well as 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 list of PREA investigations completed was provided to the auditor for 2007 to present. Nineteen completed investigations were reviewed for this facility, nine deemed unsubstantiated, ten unfounded.

- Four inmates-on-inmate abuse
- Three inmate-on-inmate harassment
- Three staff-on-inmate harassment
- Nine staff-on-inmate abuse

519 SHARPP addresses the requirements of this standard. It specifically states the following:

*Investigation Response to Sexual Harassment/ Sexually Abusive Behavior Allegations:*

*(1) The Department shall ensure that an administrative or criminal investigation is completed for all allegations of sexual harassment/abuse utilizing those staff members who have received specialized training as it relates to a PREA investigation.*

*(2) The assigned trained sexual assault investigator shall ensure that all evidence collected at the institution or at any hospital (Sexual Assault Evidence Collection Kit/Rape Kit, etc.) is transported to the State Police Laboratory as soon as possible. Evidence retained in excess of twenty-four (24) hours (weekends/holidays), shall be properly refrigerated;*

(3) Potential witnesses shall be interviewed in an attempt to gather information, corroborate the victim's statements, and/or to identify any suspect(s). Care should be taken to ensure the safety and security of potential witnesses from retribution or retaliation, and, if necessary and warranted, potential inmate witnesses shall be afforded opportunities for changes in housing placement, more secure housing, and/or accelerated classification for transfer;

(4) If sufficient information or evidence is obtained during the investigation, a disciplinary report shall be issued pursuant to 103 CMR 430, Inmate Discipline.

(5) All PREA investigations shall be in a six-part format in accordance with 103 DOC 518.

#### INVESTIGATION OF SEXUALLY ABUSIVE/HARASSING BEHAVIOR COMPLAINTS

The Department shall ensure that all available means are used to fully investigate allegations of sexual abuse and/or sexual harassment. Within seventy-two (72) hours of the reported incident, the site's Superintendent will review and assess all reported allegations of sexual harassment/sexually abusive behavior and determine the appropriate course of action.

##### A. Sexually Abusive/Harassing Behavior Between Inmates

Investigations of reported allegations of sexual harassment/sexually abusive behavior between inmates shall be initiated by the Superintendent utilizing appropriately trained facility investigative staff or, upon request to the Chief of the OIS/IAU, in conjunction with an investigator from OIS. The investigator assigned by the Superintendent is responsible for producing an investigative report and completing the PREA database case file within thirty (30) days. Extensions may be requested from and approved by the Superintendent for good cause. All investigative written material shall be uploaded to the PREA database.

##### B. Staff Accused of Sexually Abusive/Harassing Behavior with Inmates

If a staff member is accused of sexual harassment/sexually abusive behavior with an inmate, the Superintendent shall request a Category II investigation by submitting an Investigative Services Intake Form pursuant to 103 DOC 522, Internal Affairs Unit, and shall notify his/her respective Assistant Deputy Commissioner. The accused staff member may be placed by the Superintendent or Department Head on "no inmate contact status" or "detached with pay status" by the Commissioner pending an investigation of the matter. Contractors who are accused of sexual harassment/sexually abusive behavior may be removed from the institution until the investigation is completed. All volunteers who are accused shall be barred from entering any correctional institution until the investigation is completed.

The Chief of the OIS/IAU shall provide necessary access to the complaint intake and status screens of PREA cases for review by the institution's Superintendent. The format for the investigative report shall follow the procedures set forth in 103 DOC 518. Inner Perimeter Security Team (IPS). The Chief of the OIS/IAU, having oversight of the investigation shall also ensure that a PREA database case file is promptly opened and completed within thirty (30) days. Extension requests for good cause shall be granted by the Chief of OIS/IAU.

The auditor was informed that there have been no referrals for prosecution since the last PREA audit. During the audit process, the auditor found no reason to dispute this.

518 Inner Perimeter Security Team April 2020 states, 4. PREA Investigations - All Prison Rape Elimination Act (PREA) incidents shall necessitate an investigation. For tracking purposes, each investigation shall be issued a sequential number and logged accordingly. (DOC-(institution abbreviation)-(year)-00). PREA investigations shall require a six-part folder format. PREA investigations shall be submitted within thirty days (30) days in accordance with 103 DOC 519, Sexually Abusive Behavior Prevention and Intervention Policy. The Superintendent may grant time extensions if deemed necessary. The departure of the alleged abuser or victim from the employment or control of the institution or the Department shall not provide a basis for terminating an investigation. The Department shall impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated. April 2020 518 - 11 During the course of a PREA investigation, IPS staff members shall keep the IPS Commander updated as to the

*progress, or lack thereof, regarding an investigation. The IPS Commander shall direct IPS staff on procedural issues and ensure the DOS is updated throughout the investigation or upon any new developments. Upon conclusion of a PREA investigation, IPS staff members shall ensure that an executive summary of the investigation is completed. (Attachment B) PREA investigations shall be tracked in the PREA database.*

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 notifies 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. Investigators were notified immediately and initiated the investigation immediately, including the gathering and preservation of direct and circumstantial evidence. The investigators indicated they 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 staff 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. Unfounded decisions were based on a preponderance of evidence that the alleged incident did not occur.

The Auditor concluded that after review of the investigations, policies and interviews with the investigators and the Superintendent, there is ample evidence to support a finding of compliance.

## 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*)

DOC 518 states, PREA Investigations,  
*The Department shall impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated.*  
Finding of compliance is based on the following:

Compliance was also demonstrated by the interviews with the investigative staff and the review of the completed investigations from the previous twelvemonths.

## 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*)

According to the PAQ,

Thirteen investigations of alleged sexual abuse completed

Thirteen of investigations of alleged sexual abuse completed where inmate was notified of the results

zero of sexual abuse investigations completed by an outside agency

zero of notifications of the results of an investigation completed by an outside agency

zero of substantiated cases of staff sexual abuse

The interview with the Superintendent confirmed the following: When an allegation has been determined to be substantiated, unsubstantiated, or unfounded the institution notifies the inmate who made the allegation utilizing 103 DOC 519 – Attachments I, II and III, Inmate Notification Letters.

519 SHARPP supports compliance with the requirements of this standard. It states under *Reporting to Inmates*

*Following an investigation into an inmate's allegation that he/she suffered sexual harassment/abuse in a Department institution, the Superintendent shall inform the alleged victim as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded, by utilizing Attachment I.*

*If the Department did not conduct the investigation, it shall request the relevant information from the investigative agency in order to inform the inmate.*

*Following an inmate's allegation that a staff member has committed sexual harassment/abuse against him/her, the Department shall subsequently inform the victim inmate of the staff member's status utilizing Attachment II (unless the investigation has determined that the allegation is unfounded).*

*Following an inmate's allegation that he or she has been sexually harassed/abused by another inmate, the Department shall subsequently inform the alleged victim inmate of the legal status of the incident utilizing Attachment III.*

*The Department's obligation to report shall terminate if the victim inmate or perpetrator inmate is released from the agency's custody.*

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. Copies of the notifications are kept with the investigation. It was stated in the interview with the investigator that the IPS investigator who conducted the investigation is responsible for completing the notification.

Review of the policy, review of the investigations and interviews with the Superintendent 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*)

According to the PAQ, there was no staff who was disciplined for violation of agency sexual abuse or sexual harassment policies, no staff who was reported to law enforcement or licensing bodies following termination or resignation for violating agency sexual abuse or sexual harassment policies. The auditor found no reason to dispute this during the audit process.

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 have been made. Based on the policy, interview with the Superintendent and review of the investigation, the auditor finds this standard to be compliant.

Based on the policy, interview with the Superintendent and review of the investigation, 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*)

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. All volunteers who are accused shall be barred from entering any correctional institution until the investigation is completed.*

230 Discipline & Terminations states, 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. As noted in policy, staff includes contractor and volunteers for the purpose of PREA matters.

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 PAQ indicates there have been no administrative or criminal findings of sexual abuse in the past twelve months. The auditor found no reason to dispute this during the audit process.

The interview with the Superintendent confirmed the following:

inmates are subject to the following after an administrative or criminal finding that the inmate engaged in inmate-on-inmate sexual abuse:

Category 1 Offense: 1-10 Sexual Assault on another inmate. The sanctions for each Category 1 offense are as follows:

(a) Loss of statutory good time, not to exceed 360 days loss for all charges arising out of any one incident or substantially related incidents;

(b) Disciplinary Detention for up to 15 days;

(c) 60-120 days loss of a privilege including, but not limited to, one of the following: television, radio, multi-media player, personal tablet, canteen, either visits or phone privileges, hot pots, and leisure programs;

(d) Cell or housing restriction for up to 20 days; and

(e) Restitution.

(f) Referral to the DDU for a period not to exceed ten years for all violations arising out of one incident or substantially related incidents; No more than one sanction (excluding restitution) shall be imposed per offense and no more than five sanctions (excluding restitution) may be imposed for all offenses arising out of any one or substantially related incidents in which the highest offense(s) alleged is from Category 1.

The sanctions are proportionate to the nature and circumstances of the abuses committed, the inmates' disciplinary histories, and the sanctions imposed for similar offenses by other inmates with similar histories. And, mental disability or mental illness is considered when determining sanctions.

The following policies address the requirements of this standard:

*519 SHARPP 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. The perpetrators shall, where appropriate, be subject to administrative, criminal and/or disciplinary sanctions.*

*If sufficient information or evidence is obtained during the investigation, a disciplinary report shall be issued pursuant to 103 CMR 430, Inmate Discipline.*

*The Department shall utilize the internal housing risk placement screen on IMS to help identify inmates with a risk of sexual harassment/sexually abusive behavior. Those inmates identified shall be referred to appropriate institutional programming. The program referral shall be made part of the inmate's individualized program plan.*

#### **650 Mental Health Services**

*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 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. Consultation Regarding Disciplinary Disposition**

*1. Following the entry of a guilty finding on a Category 1 or Category 2 disciplinary offense for an inmate with a Mental Health Classification of MH-4, the hearing officer, if not recommending a DDU sanction, shall consult with mental health staff. Mental health staff shall render an oral opinion, if pertinent, as to whether there are mental health considerations that may bear on the issues of mitigation and determination of an appropriate sanction. This may include an opinion on the effect of particular sanctions or combination of sanctions on the inmate's mental health (e.g., loss of visits, canteen, television, etc.). The hearing officer shall indicate by "check off" on the disciplinary hearing form (Attachment 11) that he or she has received an opinion from mental health staff and document any change in the disposition of the case entered pursuant to that opinion.*

2. In the event that an inmate with a Mental Health Classification of MH-4 charged with a Category 1 or 2 disciplinary offense pleads guilty to disciplinary charges, prior to the imposition of disciplinary detention, other than a sanction of "time served," the hearing officer or disciplinary officer shall consult with mental health staff with respect to dispositional recommendations and document any such change in disposition as provided in Section 650.09(C)(1).

#### 430 Inmate Discipline (March 2019)

##### Deliberation and Decision by the Hearing Officer

(1) After the close of the presentation of the evidence, the Hearing Officer shall consider and determine the guilt or innocence of the inmate. Evidence relied upon by the Hearing Officer, shall be that on which reasonable persons are accustomed to rely in the conduct of serious affairs. The proponent(s) of the disciplinary report shall have the burden of proving the offense(s) by a preponderance of the evidence.

(2) If the inmate is found guilty, the Hearing Officer may recommend one or more of the sanctions listed in 103 CMR 430.25. The inmate's disciplinary chronology shall not be considered by the Hearing Officer in determining the guilt or innocence of the inmate, but it may be considered in deciding the appropriate sanction. The Hearing Officer may recall the inmate after reaching a guilty finding but prior to recommending a sanction to discuss issues related to the decision on sanction(s). Upon a rehearing, the Hearing Officer should not increase the sanction(s) previously recommended without good cause.

(3) Findings requiring the payment of an amount of restitution shall be supported by a preponderance of the evidence.

##### Code of Offenses

Category One. 1-1 Killing of another. 1-2 Aggravated assault on a staff member, contract employee, member of the public, volunteer or animal. 1-3 Aggravated assault of another inmate or parolee. 1-4 Aggravated assault on a visitor. 1-5 Taking or holding any person hostage. 1-6 Escape or attempted escape. 1-7 Possession, manufacture, or introduction of an explosive device or any ammunition, or any components of an explosive device or ammunition. 1-8 Possession, manufacture, or introduction of any gun, firearm, weapon, sharpened instrument, knife or poison of any component thereof. 1-9 Sexual assault on a staff member, contract employee, member of the public, or volunteer. **1-10 Sexual assault or sexual abuse of another inmate.** 1-11 Sexual assault on a visitor. 1-12 Rioting. 1-13 Inciting others to riot or inciting other inmates to participate in a major group demonstration within any institution. 1-14 Setting a fire, using or placing a bomb or incendiary device. 1-15 Introduction, distribution or transfer of any narcotic, controlled substance, illegal drug, unauthorized drug or drug paraphernalia. 1-16 Engaging in or inciting an organized work stoppage. 1-17 Fighting with, assaulting or threatening another person, due to security threat group activities or gang activities. 1-18 Engaging, encouraging, recruiting or pressuring others to engage in security threat group activities. 1-19 Fighting with or assaulting any person in an area designated for visiting, while visits are occurring. 1-20 Attempting to commit any of the above offenses, making plans to commit any of the above offenses or aiding another person to commit any of the above offenses shall be considered the same as the commission of the offense itself.

Category Two. 2-1 Unauthorized possession of items or material likely to be used in an escape. 2-2 Causing a valid threat of transmission of a contagious disease to any person due to intentional or reckless action. 2-3 Assault on a staff member, contract employee, member of the public, volunteer, or animal. 2-4 Assault on another inmate or parolee. 2-5 Assault on a visitor. 2-6 Making a bomb threat, or using a hoax device, or a hoax substance. 2-7 Fighting with any person. 2-8 Refusing to submit to urinalysis, breathalyzer, or other standard sobriety test or altering or interfering with any such test, or failing to provide a urine sample when ordered to do so by a staff member without medical or mental

health justification. 2-9 Refusing or failing to submit to testing required by statute, or order, such as DNA blood tests, when ordered to do so by a staff member. 2-10 Engaging in or inciting a group demonstration inside the correctional institution or a hunger strike inside the correctional institution. 2-11 Unauthorized use or possession of drugs, narcotics, illegal drugs, unauthorized drugs or drug paraphernalia. 2-12 Possession, manufacture or introduction of unauthorized keys. **2-13 Indecent exposure, or masturbating in the view of another person.** 2-14 Receiving test results indicating the presence of unauthorized drugs, alcohol or other intoxicants. 2-15 Interfering with staff members, medical personnel, firefighters, or law enforcement personnel in the performance of their duties during an emergency. 2-16 Tampering with, damaging, blocking or interfering with any locking or security device or window. 2-17 Impersonating any staff member, contract employee, volunteer or visitor. 2-18 Causing an inaccurate count by means of unauthorized absence, hiding, concealing oneself or other form of deception or distraction. 2-19 Possessing, making, introducing or transferring intoxicants and alcohol, or possession of ingredients, equipment, formula, or instructions that are used in making intoxicants and alcohol. 2-20 Possession of the clothing of a staff member or contract employee, or visitor. 2-21 Causing injury to another person by resisting orders, resisting forced movement or physical efforts to restrain. 2-22 Making a false fire alarm or tampering with, damaging, blocking or interfering with fire alarms, fire extinguishers, fire hoses, fire exits, or other firefighting equipment or devices. 2-23 Counterfeiting, committing forgery, altering or unauthorized reproduction of any document, article of identification, money, security, or official paper. 2-24 Conduct which interferes with the security or orderly running of the institution. 2-25 Wearing or displaying colors or any type of emblem, insignia or logo suggesting possible membership or affiliation with a gang, group party or other association whenever such wearing or display may, when the Superintendent has reasonable cause to believe, pose a threat to the security, good order or safety of the institution. 2-26 Possessing, wearing or using security threat group paraphernalia or photographs. 2-27 Failure to timely report to a location or program assignment resulting in a declaration of escape status. 2-28 Distribution or sale of tobacco. **2-29 Engaging in intimate acts and/or sexual acts with another.** **2-30 Stalking.** 2-31 Possession of a cell phone, unauthorized electronic device, or paraphernalia for a cell phone or unauthorized electronic device, regardless of whether the cell phone/device is operable. 2-32 Attempting to commit any of the above offenses, making plans to commit any of the above offenses or aiding another person to commit any of the above offenses shall be considered the same as the commission of the offense itself.

Category Three. 3-1 Lying to or providing false information to a staff member. 3-2 Receipt or possession of contraband of items not authorized for retention by inmates. 3-3 Reserved for Future Use. 3-4 Threatening another with bodily harm or with any offense against another person, their property or their family. 3-5 Refusing a direct order by any staff member. 3-6 Impersonating another inmate. 3-7 Refusing a transfer to another institution. 3-8 Extortion, blackmail, or demanding or receiving money or anything of value in return for protection against others, or under threat of informing. 3-9 Throwing objects, materials, substances, or spitting at another. 3-10 Theft of property or possession of stolen property. 3-11 Unauthorized accumulation/misuse of prescribed medication. 3-12 Possession, manufacture, or introduction of an unauthorized tool. 3-13 Organizing or participating in an unauthorized group activity or meeting inside the correctional institution. 3-14 Giving, selling, borrowing, lending, or trading money or anything of value to, or accepting or purchasing money or anything of value from another inmate or an inmate's friend(s) or family. 3-15 Flooding a cell or other area of the institution. 3-16 Refusing a cell or housing assignment. 3-17 Causing an individual to be penalized or proceeded against by providing false information. 3-18 Gambling and/or possession of gambling paraphernalia. 3-19 Giving, receiving or offering any person a bribe or anything of value for an unauthorized favor or service. 3-20 Receiving a tattoo while incarcerated, tattooing another, or possessing tattoo paraphernalia and/or body piercing. 3-21 Fraud, embezzlement, or obtaining goods, services, money or anything of value under false pretense. 3-22 Creating an emergency by feigning

illness or injury. 3-23 Possession of tobacco products and/or an incendiary device. 3-24 Being out of place or in an unauthorized area outside of the inmate's unit. 3-25 Communicating, directly or indirectly with any staff member, contract employee, volunteer or their relatives at their home addresses, home telephone numbers, email addresses, social media accounts or for nonofficial business. **3-26 Use of obscene, abusive or insolent language or gesture.** 3-27 Conduct which disrupts the normal operation of the facility or unit. 3-28 Possession of an altered appliance. 3-29 Engaging in an unauthorized visit while on a community work crew or a pre-release work assignment. 3-30 Attempting to commit any of the above offenses, making plans to commit any of the above offenses or aiding another person to commit any of the above offenses shall be considered the same as the commission of the offense itself.

Category Four. 4-1 Receipt or possession of contraband. 4-2 Mutilating, defacing or destroying state property or the property of another person. 4-3 Unauthorized possession of money or other negotiable items. 4-4 Use of mail or telephone in violation of established rules or regulations. 4-5 Telephoning or sending written communications to any person contrary to previous written warnings and/or documented disciplinary action. **4-6 Possession of any photographic, or hand drawn material and/or unauthorized publication that depicts sexually explicit acts, and/or nudity.** 4-7 Reserved for Future Use. 4-8 Misuse or waste of issued supplies, goods, services, or property. 4-9 Failure to maintain acceptable hygiene. 4-10 Failure to maintain acceptable hygiene or appearance of a housing area. 4-11 Violating any departmental rule or regulation, or any other rule, regulation, or condition of an institution or community based program. 4-12 Failure to comply with standing count procedures. 4-13 Being out of place or an unauthorized area within a unit. 4-14 Reserved for Future Use. 4-15 Attempting to commit any of the above offenses, making plans to commit any of the above offenses or aiding another person to commit any of the above offenses shall be considered the same as the commission of the offense itself.

Inmates are sanctioned for sexual abuse, sexual harassment as well as consensual sexual activity, as highlighted above. The PAQ indicates there have been no misconduct reports for violation of sexual abuse or sexual harassment at this facility in the previous twelve month review period.

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, per the interview with the Superintendent. Based on an analysis of the policy, review of investigations, interviews with the Superintendent and investigators, there is ample 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

### 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*)

According to the PAQ, 100% of inmates who disclosed prior victimization during screening were offered a follow up meeting with medical/mental health practitioner, 100% of inmates who disclosed previously perpetrated sexual abuse during screening were offered a follow up meeting with medical/mental health practitioner.

650 Mental Health Services addresses the requirements of this standard. It states, *Medical and mental health screenings; history of sexual abuse.*

*Medical and mental health screenings; history of sexual abuse. a. If the screening 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 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. 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 May 2020 - 13 - 103 DOC 650 housing, bed, work, education, and program assignments, or as otherwise required by Federal, State, or local law. d. 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.*

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). As 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). As the intake screen is performed by medical/mental health staff, the auditor finds this ensures that information is only shared when necessary. 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 last fifteen inmates to arrive at the facility support that the required referral for a follow up meeting was completed. (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. One example of a referral for mental health evaluation was provided for an inmate deemed to be an aggressor and one was provided for an inmate deemed to be a victim. 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*)

519 SHARPP addresses this standard. It states the following:

*Response Plan - Immediately escort the inmate victim to the institution's Health Services Unit for emergency medical care/mental health treatment;*

*Medical Response to Sexually Abusive Behavior Allegation:*

*(1) Inmate victims of sexual abuse shall receive timely, unimpeded access to emergency medical treatment and crisis intervention services. A qualified health care professional shall evaluate and document the extent of the physical injury and provide emergency medical treatment as needed;*

*(2) An emergency mental health referral to the on-site mental health professional shall be made following the completion of the medical evaluation;*

*(3) Upon completion of the medical and mental health evaluation, the Superintendent/designee, in consultation with medical and mental health personnel, shall determine whether a referral to an outside hospital with a rape crisis unit and SANE Program services is warranted. Factors to be considered include, but are not limited to, the time frame between the alleged assault and complaint, as well as the extent and nature of the allegation, as described in 103 DOC 630, Medical Services;*



(4) If the determination is made that the inmate victim should be sent to an outside hospital, and if the inmate victim consents, the inmate victim shall be transported to an outside hospital with a SANE Program where he/she shall receive essential medical intervention, including preventative treatment for HIV, sexually transmitted diseases, and pregnancy, if appropriate. The guidelines for referring an inmate to an outside hospital for rape crisis intervention services shall be found in 103 DOC 630, Medical Services;

(5) In the event that the inmate has injuries warranting immediate medical treatment, the inmate may be taken to a non-SANE medical site for stabilization prior to transportation to a SANE site for an examination;

(6) Upon return from the outside hospital, the inmate victim shall be brought to the Health Services Unit for appropriate follow-up care, including a mental health screening by qualified contractual health care personnel. If, during this screening, there are any indications that the inmate victim is at risk to hurt him/herself or others, a mental health professional shall be immediately notified. Otherwise, the inmate victim shall be seen by a mental health professional within twenty-four (24) hours, or no later than the next business day, to assess the need for crisis intervention and long-term counseling, pursuant to 103 DOC 650, Mental Health Services;

(7) An inmate victim may be allowed to refuse institutional and/or rape crisis intervention treatment at an outside hospital. In these situations, the inmate victim shall be permitted to refuse treatment at the institution. Before the refusal is accepted, the Department's contractual medical and mental health provider shall attempt to encourage the inmate to go to the outside hospital for treatment.

In cases where the inmate victim continues to refuse treatment, the inmate victim shall sign a Refusal of Treatment form pursuant to 103 DOC 630, Medical Services. Provisions shall be made for testing sexually transmitted diseases (e.g., HIV, gonorrhea, hepatitis) as well as prophylactic treatment, follow-up care and counseling pursuant to 103 DOC 631, Communicable Disease, 103 DOC 620, Special Health Care Practices, and 103 DOC 650, Mental Health Services;

(8) Once cleared by medical and mental health staff, the Superintendent/designee shall determine an appropriate housing assignment for the inmate victim;

(9) Community based victim advocacy services are offered to the inmate as part of the SANE examination at the outside hospital/rape crisis center. Any contracted advocate or community-based advocate assigned shall be coordinated by the Director of the Victim Services Unit. The advocate assigned shall accompany and support the victim through the forensic medical examination process and investigatory interviews, informational meetings, and referrals.

(10) Rape crisis services shall be provided at no cost to the alleged victim unless the claim of being sexually assaulted was knowingly false.

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.

650 Mental Health Services states,  
*Mental Health Response to Reports of Sexually Abusive Behavior A. The mental health response to reports of sexually abusive behavior shall be governed by 103 DOC 519, Sexually Abusive Behavior Prevention and Intervention. The Mental Health Contractor shall establish procedures consistent therewith. B. The mental health response shall include the following: 1. Any inmate who reports being physically victimized by sexually abusive behavior shall be brought to the Health Services Unit for emergency medical and mental health treatment as needed. a. 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. b. If the alleged victim is under the age of 18 or considered a vulnerable adult under a State or local vulnerable persons statute, the agency shall report the allegation to the designated State or local services agency under applicable mandatory reporting laws. 2. The inmate shall be evaluated by a qualified health care professional for physical injuries and emergency medical treatment. 3. An emergency mental health referral to the onsite mental health clinician shall be made following the completion of the medical examination. Any reports of physical or verbal abuse of a sexual nature shall be referred to the mental health crisis clinician.. The on-site mental health clinician shall conduct an initial assessment to identify any symptoms which may preclude the inmate's transport to an outside hospital (i.e. gross psychotic symptoms, risk of self-harm) and offer supportive services as needed. If the report of sexually abusive behavior occurs when there are no on-site mental health clinicians, a qualified medical provider shall screen the inmate and immediately notify the on-call mental health clinician if the inmate victim is deemed at risk of harm to self or others. 5. Following the completion of the medical and mental health assessments, the Superintendent, in consultation with medical and mental health clinicians, shall determine whether there is sufficient physical evidence to justify a referral to an outside hospital with a SANE program in accordance with 103 DOC 630.16. 6. Upon the inmate's return from the outside hospital, the inmate shall be brought to the HSU for appropriate follow-up care to include a mental health screen by a Qualified Health Professional. If the screen indicates that the inmate is at risk to harm self or others, a mental health clinician shall be immediately notified. Otherwise, the inmate shall be seen by a Qualified Mental Health Professional within twenty-four (24) hours or no later than the next business day to assess the need for ongoing monitoring and counseling. 7. 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. Such review shall ordinarily occur within 30 days of the conclusion of the investigation. The review team shall include upper-level management officials, with input from line supervisors, investigators, and medical or mental health practitioners.*

Wellpath 57.00 states,

#### *Instances of Reported Sexual Assault*

- 1. Allegations of sexual assault of patients shall be responded to immediately to ensure patient safety.*
- 2. Sexual assault victims shall be evaluated and treated at an outside medical facility for violence prevention and recovery and for forensic evidence collection when clinically indicated and/or when collection of forensic evidence is still possible. Penetration is defined as oral, genital, or rectal insertion of any objects or body part. (Refer to 103 DOC 630 Medical Services)*
- 3. Upon consent of the patient the healthcare staff shall conduct an examination to document the extent of physical injury and to determine if referral to another medical facility is indicated.*
- 4. An emergency mental health referral to the on-site mental health professional should be made following completion of the medical screening. The mental health professional shall evaluate the patient for immediate risk management concerns, ongoing crisis intervention counseling, and long term follow up.*
- 5. Patient victims of sexually abusive vaginal penetration while incarcerated shall be offered pregnancy testing.*

*If pregnancy results from this conduct, such victims shall receive timely and comprehensive information about and timely access to all lawful pregnancy related medical services.*

*Patient victims of sexual abuse while incarcerated shall be offered testing for sexually transmitted infections (e.g. HIV, Hepatitis and other related STD's) as medically appropriate.*

6. When transfer to an outside medical facility is indicated, healthcare staff shall provide necessary care to stabilize the patient prior to transfer. Such care may include control of bleeding, or stabilizing other injuries, but most frequently would involve emotional support.

7. Healthcare staff shall not engage in the collection of forensic evidence, or the investigation of the complaint.

8. 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 57.00 Sexual Assault / PREA Compliance anyone other than to the extent necessary to make treatment, investigation and other security and management decisions. Healthcare staff shall maintain confidentiality regarding the care and condition of the patient. However, healthcare professionals shall immediately report to the Shift Commander any acts of violence or reports of sexual activity between patients and with staff.

9. Medical and mental health practitioners are required to inform patients at the initiation of services of their duty to report, and the limitations of confidentiality, unless otherwise precluded by Federal, State or Local law.

### 3. PROCEDURE

1. The staff member who becomes aware of allegations of sexual assault shall immediately do the following:

- Notify the Shift Commander who shall ensure separation of the victim from the assailant
- Refer the victim to the internist/provider for medical evaluation
- Notify the Director of Nursing or designee who shall address exposure issues
- Complete a Confidential IMS Incident Report
- Provide emotional support and crisis intervention services to assist with the immediate psychological trauma

2. Healthcare staff shall screen the patient for obvious physical trauma and shall render emergency care. Upon completion of the medical and mental health evaluation, the Superintendent or designee, in consultation with medical and mental health personnel shall determine whether a referral to an outside hospital is warranted. Factors to be considered are the time frame between the alleged assault and complaint, as well as the extent and nature of the allegation.

3. When transfer off site is warranted, the following shall occur:

- Healthcare staff shall complete the Off Site Referral form to be sent with the patient
- Healthcare staff shall complete the Health Status Form to be sent with the patient
- Healthcare staff shall follow guidelines for referring Massachusetts State Prison Patients to one of the designated SANE "designated hospitals" (Refer to Attachment)
- Notify the Designated Hospital Emergency Unit (EU) triage nurse of the referral prior to transport and provide the Hospital with the name and telephone numbers of the site Healthcare staff, Nursing Supervisor and psychiatric contact staff at the sending facility.

4. Healthcare staff shall schedule the patient for follow up services at the designated hospital's Violence Prevention and Recovery Program, or other approved designated medical facility, as indicated and shall utilize their service for consultation when necessary.

5. If the patient refuses recommendations for medical care or mental health counseling, the patient shall be counseled by a member of the on-site healthcare and mental health team and a refusal of treatment form initiated if the patient continues to refuse care.

6. Healthcare staff shall interact with the patient in a neutral and non-judgmental manner at all times during the crisis.

7. Healthcare staff shall not ask the patient for details of the incident beyond that which is necessary for treatment.

8. Healthcare staff shall document their interactions with the patient in a progress note in the Medical Record, utilizing the SOAP or DAP (when indicated) format.
9. Upon return from an outside facility, the healthcare staff shall interview the patient to assess on-going medical needs and a referral for mental health consultation shall be initiated.
10. If the site healthcare staff has concerns regarding a patient's mental status or level of suicidality, an emergency referral shall be made to the appropriate mental health staff, per Wellpath policy, or to the on-call crisis clinician and on call psychiatrist if the situation arises during non-business hours.
11. When a patient is referred for mental health services, the Mental Health Professional or assigned Crisis Clinician shall assess the patient's mental status and shall determine an immediate plan of care to ensure patient safety. The Mental Health Professional or assigned Crisis Clinician shall institute a treatment plan which may include a mental health watch if clinically indicated. During non-business hours, the nurse shall conduct the assessment, and then collaborate with the on call clinician or psychiatrist as dictated by Wellpath policy.
12. The Nursing staff shall collaborate with the site Medical Director to address all issues related to exposure management, documentation, and notification to the IDM and Chief Nursing Officer. Specifically, the site Medical Director and nursing staff shall follow up on baseline testing and patient counseling as indicated. Additionally the Contracted Healthcare Vendor's Correctional Health Exposure of Concern form shall be faxed to 508-285-7616.
13. As a preventative measure and educational initiative, patients shall receive a PREA Orientation/Overview as part of their site orientation process.
14. The Contracted Healthcare Vendor shall ensure that all full-time and part-time medical and mental health care practitioners who work regularly in the facilities have been trained in the following:
- How to detect and assess signs of sexual abuse and sexual harassment
  - How to preserve physical evidence of sexual abuse
  - How to respond effectively and professionally to victims of sexual abuse and harassment
  - How and to whom to report allegations or suspicions of sexual abuse and harassment
- The Contracted Healthcare Vendor shall maintain documentation that medical and mental health care staff have received the training.

#### 4. ATTACHMENTS

List of: Massachusetts Designated SANE Hospitals

(a) Health care staffs at this facility are available on site are available twenty four hours a day, seven days a week (24/7) from the facility nearby – Cedar Junction. (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 and the PAQ demonstrate that no allegation warranted the need for emergency medical treatment outside the facility. The Auditor found no evidence to dispute this during the audit process. 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 the investigation and other documentation support a finding of compliance for this standard. There have been no incidents of sexual abuse; the auditor found no reason to dispute this.

## 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*)

650 Mental Health Services address this standard It states the following:

*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.*

*c. Treatment services shall be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with an investigation arising out of the incident.*

*Ongoing Medical and Mental Health Care for Sexual Abuse Victims and Abusers.*

*1. Mental health staff shall offer a mental health evaluation and, as appropriate, treatment to all inmates who have been victimized by sexual abuse in any prison.*

*2. 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 DOC custody.*

*3. A mental health evaluation of all known inmate on-inmate abusers shall be conducted within 60 days of learning of such abuse history and mental health staff shall offer treatment when deemed clinically appropriate.*

*MPCH 57 (January 2018) adopted by Wellpath, Inc. states Inmate victims of sexual abuse while incarcerated shall be offered testing for sexually transmitted infection (e.g. HIV, Hepatitis and other related STD's as medically appropriate.*

Policy indicates 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, no incident occurred that warranted ongoing medical and mental health care due to an allegation of sexual abuse. Treatment is consistent with community levels of care, as confirmed by the interviews with medical and mental health staff(c). No females are housed at this facility (d) (e). 650 Mental Health Services also ensures that a mental health evaluation of all known inmate-on-inmate abusers will be conducted within 60 days of learning of such abuse history and offer treatment when deemed clinically appropriate (f). The auditor finds this credible as there is a process for the Department to evaluate inmates for placement in a Sex Offender program. For all these reasons, the auditor finds sufficient evidence to support a finding of compliance.

## 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*)

519 SHARPP specifically states, *PREA COMMITTEES AND SEXUAL HARASSMENT/ABUSE INCIDENT REVIEWS*

*Each institution shall establish 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 at that site. The PREA committee is to conduct monthly documented meetings to assess site specific sexual harassment/abuse issues and guide the institution's compliance with DOJ PREA standards and SHARPP. The committee's activities are to be coordinated by the site's PREA Manager.*

*The facility shall also conduct a sexual harassment/abuse incident review at the conclusion of all substantiated and unsubstantiated investigations. Investigations which result in a determination of "unfounded" do not need to be formally reviewed as part of the aforementioned incident review meeting.*

*Incident reviews shall ordinarily occur within thirty (30) days of the conclusion of the investigation. The date of the conclusion of an investigation is the date the Superintendent/designee enters the official outcome of the investigation into the Department's PREA database.*

*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 harassment/abuse;*
- (2) Consider whether the incident or allegation was motivated by race, ethnicity, gender identity, sexual orientation, transgender or intersex (LGBTI) identification status or perceived status, gang affiliation, or whether the incident was motivated or otherwise caused by other group dynamics at the institution;*
- (3) Examine where the incident allegedly occurred to assess whether physical barriers in the area may have enabled the incident;*
- (4) Assess the adequacy of staffing levels where the incident allegedly occurred during various shifts;*
- (5) Assess whether monitoring technology should be deployed or enhanced to supplement supervision by staff; and,*
- (6) Document the review process by using the PREA database. The committee shall document its findings, including, but not limited to, determinations made pursuant to the above and any recommendations for improvement. The institution shall implement the recommendations for improvement or shall document its reasons for not doing so.*

The interview with the Superintendent confirmed that the facility does complete sexual abuse incident reviews addressing all requirements of the standard. Additionally, the investigator confirmed that he is a part of this review as well as medical and mental health staff.

One example was provided to the auditor with the pre-audit documentation. Members included the investigator, PREA Manager, mental health staff and a program manager.

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 implemented, or why it wasn't implemented (e).

Incident reports were reviewed; all 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. For the reasons stated, the Auditor finds this standard compliant.

## 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*)

519 SHARPP states, the following:  
DATA COLLECTION/ANALYSIS/STORAGE

*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 by the certified investigators assigned by Superintendents or the Chief of the OIS/IAU. On a monthly basis, each PREA Manager and the Chief of OIS/IAU, or their respective designees, are required to review each PREA allegation/incident logged into their respective institutional database, ensuring that all the appropriate data fields have been completed and are accurately documented, and that all appropriate documentation has been uploaded.*

*Other sources may be queried to develop intelligence information that may become useful to prevent sexual harassment/sexually abusive behavior. These sources may include, but are not limited to, inmate correspondence, inmate telephone records/recordings, inmate grievances, and institution climate reports.*

#### *A. Collection*

*The Department shall collect accurate, uniform data for every allegation of sexual harassment/abuse at institutions through the use of the PREA database.*

*The Departmental PREA Coordinator/designee shall aggregate the incident-based sexual abuse data at least annually and submit a report to the DOJ as required.*

*The incident-based data collected shall include, at a minimum, the data necessary to answer all inquiries and surveys by the DOJ.*

*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. 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.*

*Upon request, the Department's PREA Coordinator shall provide all such data from the previous calendar year to the DOJ.*

#### *B. Data review for corrective action*

*The Department shall review data collected and aggregated in order to assess and improve the effectiveness of its sexual harassment/abuse response prevention policy and all such efforts related to the prevention, detection and response to any and all sexual harassment/abuse allegations.*

*Additionally, the collection and review of such data serves to give the Department the ability to continually enhance and improve its practices and training, including:*

- (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 Department as a whole.*

*a. 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/harassment within the Department.*

*b. The Department's report shall be approved by the Commissioner and made readily available to the public through the Department's website.*

*c. The Department shall redact specific material from the report when publication would present a clear and specific threat to the safety and/or security of an institution but shall indicate the nature of the material redacted.*

#### *C. Data storage, publication, and destruction*

*The Department shall ensure that data collected is securely retained and only shared with individuals, institutions, and/or agencies, on a "need to know basis."*

*(1) The Department shall attempt to make all aggregated sexual harassment/abuse data from institutions under its direct control, and private facilities with which it contracts with, readily available to the public at least annually through its Departmental website.*

(2) Before making aggregated sexual harassment/abuse data publicly available, the Department shall remove all personal identifiers.

(3) The Department shall maintain collected sexual harassment/abuse data for at least ten (10) years after the date of the initial collection. Destruction of any records shall be done in accordance with the latest Massachusetts Statewide Records Retention Schedule.

#### SUPERVISION AND MONITORING

At least annually, the Department's Deputy Commissioner of Prisons or Chief of Staff will meet with the PREA Coordinator to assess, determine, and document, whether adjustments are needed to any institution staffing plans. In doing so, a review of the institution PREA safety assessment and other available resources of information shall be utilized. This assessment shall be used to determine and document whether adjustments are needed to:

- The staffing plan established pursuant to 103 DOC 510, Security Staffing and Analysis;
- The institution's deployment of video monitoring systems and other monitoring technologies; and
- The resources the institution has available to commit to ensure adherence to the staffing plan.

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 2019 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 report 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.

After analysis of the evidence, the Auditor assess an Exceeds standard finding due to the availability to aggregate information whenever a need presents based on the database, and therefore the ability to 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*)

519 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).519 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 2019 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, 2017 and 2018. The report includes information on achievements, purpose, summary of data collection capabilities, aggregated data with comparison to prior years, definitions, agency overview from 2019 compared to 2018, 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, demonstrating that this Department places a high importance on the mission of eliminating sexual abuse and sexual harassment.

## 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*)

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, 2018 and 2019 are posted on the agency website (b); no personal identification is in the report (c). 519 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. He 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*)

(a) During the three-year period starting on August 20, 2013, and during each three-year period thereafter, the agency shall ensure that each facility operated by the agency, or by a private organization on behalf of the agency, is audited at least once. (b) During each one-year period starting on August 20, 2013, the agency shall ensure that at least one-third of each facility type operated by the agency, or by a private organization on behalf of the agency, is audited.

*The previous PREA Audit report from 2017 is located on the agency website. 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 were audited. For 2019, one third of the facilities were audited. This audit is the beginning of the Agency's third cycle of PREA audits. All reports on located on the website for the Agency. As this auditor has completed all PREA audits for this agency, it is confirmed that all reports are posted on the website and completed for each operation.*

(c) The Department of Justice may send a recommendation to an agency for an expedited audit if the Department has reason to believe that a particular facility may be experiencing problems relating to sexual abuse. The recommendation may also include referrals to resources that may assist the agency with PREA-related issues.

*No expedited recommendation has been received.*

(d) The Department of Justice shall develop and issue an audit instrument that will provide guidance on the conduct of and contents of the audit.

*The 2017 Auditor Handbook and PREA standards were used to provide guidance on the conduct of and contents of this audit.*

(e) The agency shall bear the burden of demonstrating compliance with the standards. (f) The auditor shall review all relevant agency-wide policies, procedures, reports, internal and external audits, and accreditations for each facility type. (g) The audits shall review, at a minimum, a sampling of relevant documents and other records and information for the most recent one-year period. (h) The auditor shall have access to, and shall observe, all areas of the audited facilities. (i) The auditor shall be permitted to request and receive copies of any relevant documents (including electronically stored information).

*The Agency/facility provided the auditor with documentation prior to the audit which included agency-wide policies, procedures, reports, internal and external audits, and accreditations for each facility, observations during the tour, and interviews with staff that provided the auditor with sufficient evidence to support a finding of compliance. Sampling of documentation used to determine compliance is noted in the audit report. The Auditor was able to request and receive any documents deemed relevant by the Auditor to support audit findings.*

(j) The auditor shall retain and preserve all documentation (including, e.g., video tapes and interview notes) relied upon in making audit determinations. Such documentation shall be provided to the Department of Justice upon request.

*The Auditor has retained all documentation and notes received before the onsite audit, during the onsite audit and after the onsite audit and can be provided to the Department of Justice upon request.*

(k) The auditor shall interview a representative sample of inmates, residents, and detainees, and of staff, supervisors, and administrators.

*Specifics on who was interviewed is noted in the narrative section of this report.*

(l) The auditor shall review a sampling of any available videotapes and other electronically available data (e.g., Watchtour) that may be relevant to the provisions being audited.

*The auditor reviewed the monitoring system while on site and retained video evidence to support unannounced rounds.*

(m) The auditor shall be permitted to conduct private interviews with inmates, residents, and detainees.

*All interviews were conducted in a private setting.*

(n) Inmates, residents, and detainees shall be permitted to send confidential information or correspondence to the auditor in the same manner as if they were communicating with legal counsel.

*As noted in the narrative, posters were visible throughout the facility with the auditor's address for correspondence. No correspondence was received from the facility. Randomly inmates were asked regarding the posters and indicated they had been up "for some time".*

(o) Auditors shall attempt to communicate with community-based or victim advocates who may have insight into relevant conditions in the facility.

*The Auditor communicated with JDI, PLS, and BARCC. Details are noted in the report.*

## Standard 115.403: Audit contents and findings

### 15.403 (f)

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

### Auditor Overall Compliance Determination

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

(a) Each audit shall include a certification by the auditor that no conflict of interest exists with respect to his or her ability to conduct an audit of the agency under review.

*Completed at the end of the report.*

(b) Audit reports shall state whether agency-wide policies and procedures comply with relevant PREA standards. (c) For each PREA standard, the auditor shall determine whether the audited facility reaches one of the following findings: Exceeds Standard (substantially exceeds requirement of standard); Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period); Does Not Meet Standard (requires corrective action). The audit summary shall indicate, among other things, the number of provisions the facility has achieved at each grade level. (d) Audit reports shall describe the methodology, sampling sizes, and basis for the auditor's conclusions with regard to each standard provision for each audited facility and shall include recommendations for any required corrective action.

*For each finding, notation regarding the policy compliance is made. Additionally, basis for each finding is noted along with evidence provided.*

(e) Auditors shall redact any personally identifiable inmate or staff information from their reports but shall provide such information to the agency upon request and may provide such information to the Department of Justice.

*No personally identifiable information is noted in the report.*

(f) The agency shall ensure that the auditor's final report is published on the agency's website if it has one or is otherwise made readily available to the public.

## 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*

[Click here to enter text.](#)

**Auditor Signature**

**Date**