

Prison Rape Elimination Act (PREA) Audit Report

Adult Prisons & Jails

☐ Interim ☒ Final

Date of Report 01/06/2019

Auditor Information

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Company Name: Michigan Department of Corrections

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City, State, Zip: Lansing, Michigan 48933

Telephone: (517) 281-7716

Date of Facility Visit: April 10, 2019

Agency Information

Name of Agency:

Maryland Department of Public Safety and Correctional Services

Governing Authority or Parent Agency (If Applicable):

State of Maryland

Physical Address: 300 E. Joppa Rd

City, State, Zip: Towson, Maryland, 21286

Mailing Address:

City, State, Zip:

Telephone: (410) 339-5000

Is Agency accredited by any organization? ☒ Yes ☐ No

The Agency Is:

☐ Military

☐ Private for Profit

☐ Private not for Profit

☐ Municipal

☐ County

☒ State

☐ Federal

Agency mission:

The Department of Public Safety and Correctional Services protects the public, its employees, and detainees and offenders under its supervision.

Agency Website with PREA Information: <https://www.dpscs.state.md.us/prea/index.shtml>

Agency Chief Executive Officer

Name: Robert L. Green

Title: Secretary

Email: robertl.green@maryland.gov

Telephone: (410) 339-5000

Agency-Wide PREA Coordinator

Name: David Wolinski		Title: PREA Coordinator	
Email: <u>david.wolinski@maryland.gov</u>		Telephone: (410) 339-5033	
PREA Coordinator Reports to: Michael Zeigler		Number of Compliance Managers who report to the PREA Coordinator: 23	
Facility Information			
Name of Facility: Patuxent Institution			
Physical Address: 7555 Waterloo Road, Jessup, Maryland 20794			
Mailing Address (if different than above): Same			
Telephone Number: (410) 799-3400			
The Facility Is:	<input type="checkbox"/> Military	<input type="checkbox"/> Private for profit	<input type="checkbox"/> Private not for profit
<input type="checkbox"/> Municipal	<input type="checkbox"/> County	<input checked="" type="checkbox"/> State	<input type="checkbox"/> Federal
Facility Type:	<input type="checkbox"/> Jail	<input checked="" type="checkbox"/> Prison	
Facility Mission: The Department of Public Safety and Correctional Services protects the public, its employees, and detainees and offenders under its supervision.			
Facility Website with PREA Information: https://www.dpscs.state.md.us/prea/index.shtml			
Warden/Superintendent			
Name: Laura Armstead		Title: Warden	
Email: laura.armstead@maryland.gov		Telephone: 410-799-3400 ext. 7273	
Facility PREA Compliance Manager			
Name: Carol Harmon		Title: Assistant Warden	
Email: carol.harmon@maryland.gov		Telephone: (410) 799-7276	
Facility Health Service Administrator			
Name: Marian Peters		Title: Health Service Administrator	
Email: marian.peters@corizon.com		Telephone: 410-799-3400 ext. 4416	
Facility Characteristics			
Designated Facility Capacity: 1200		Current Population of Facility: 917	

Number of inmates admitted to facility during the past 12 months		1201	
Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 30 days or more:		671	
Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 72 hours or more:		1201	
Number of inmates on date of audit who were admitted to facility prior to August 20, 2012:		30	
Age Range of Population:	Youthful Inmates Under 18: 0	Adults: 18 and older	
Are youthful inmates housed separately from the adult population?		<input type="checkbox"/> Yes	<input type="checkbox"/> No <input checked="" type="checkbox"/> NA
Number of youthful inmates housed at this facility during the past 12 months:		0	
Average length of stay or time under supervision:		14yrs	
Facility security level/inmate custody levels:		Medium/Max	
Number of staff currently employed by the facility who may have contact with inmates:		455	
Number of staff hired by the facility during the past 12 months who may have contact with inmates:		46	
Number of contracts in the past 12 months for services with contractors who may have contact with inmates:		4	
Physical Plant			
Number of Buildings: 14		Number of Single Cell Housing Units: 6	
Number of Multiple Occupancy Cell Housing Units:		18	
Number of Open Bay/Dorm Housing Units:		4	
Number of Segregation Cells (Administrative and Disciplinary):		71	
Description of any video or electronic monitoring technology (including any relevant information about where cameras are placed, where the control room is, retention of video, etc.): Patuxent reports a total of 120 cameras, 50 surveillance cameras (no recording capabilities) located in the mental health tiers, and 52 DVR's cameras located in stair wells, hallways, and recreation areas. The facility reports that Patuxent Institution Women (PIW) received new cameras in 2018. These cameras were placed in all day rooms, the kitchen, and isolated areas.			
Medical			
Type of Medical Facility:		24 hr. general medical and dispensary	
Forensic sexual assault medical exams are conducted at:		Baltimore Mercy Hospital	
Other			
Number of volunteers and individual contractors, who may have contact with inmates, currently authorized to enter the facility:		202	
Number of investigators the agency currently employs to investigate allegations of sexual abuse:		20	

Audit Findings

Audit Narrative

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

Introduction

We have audited Patuxent Institution (PATX) in accordance with the *National Standards to Prevent, Detect, and Respond to Prison Rape Under the Prison Rape Elimination Act (PREA)* and a multi-state consortium agreement between the States of Michigan, Maryland, Pennsylvania, and State of Wisconsin (the consortium). The consortium agreement ensures that the audits are conducted in a manner that is independent, objective, credible and equitable.

The audit was conducted by Matthew A. Silsbury a U.S. Department of Justice Certified PREA auditor for adult facilities from the Michigan Department of Corrections. Pursuant to Standard 115.402 the auditor asserts that no conflict of interest exists regarding Patuxent Institution the facility being audited or the Maryland Department of Public Safety and Correctional Services (DPSCS). Accompanying Mr. Silsbury were Craig Cummings, Chris Lamentola, and Dennis Cassel who served in a support capacity during the conduct of the audit.

The on-site audit of Patuxent Institution commenced on April 10, 2019 and concluded on April 11, 2019. PATX is located at 7555 Waterloo Road, Jessup, Maryland 20794. PATX began operations in 1955 and is operated by the Maryland Department of Public Safety and Correctional Services. PATX houses both male and female adult inmates 18+ years of age or older. 85% of the inmate population is predominately medium security. The facility does have a mental health unit for male inmates with acute mental illness. The mental health unit provides stabilization services so that inmates with acute mental illness can return to general population or be placed in a special needs area. The facility no longer houses inmates under the age 18. The agency built the Youth Detention Center in Baltimore specifically for the purpose of housing inmates under the age of 18.

Pre-Onsite Audit

The audit commenced with the delivery of the audit notices and instructions for posting the audit notices to the PATX PREA Coordinator on February 25, 2019. The notices were provided in both English and Spanish and included specific instructions for posting said notices. On March 5, 2019, the auditor received notification that the audit notices had been posted on February 27, 2019. PATX did not provide photographs of the audit notices as requested by the auditor.

An introductory conference call with PATX PREA Compliance Manager (Assistant Warden) Carol Harmon (Manager Harmon) March 5, 2019. Discussion included the delivery of the PAQ and relevant

audit documentation. Other items discussed were the use of the Online Audit System (OAS), facility access, on-site audit logistics, and the development of a tentative on-site audit itinerary.

Discussion was pertaining the auditor's role throughout the audit process. The auditor provided the facility with an overview of the audit process. The facility was advised that PREA audits are practice based audits and do not rely solely on policies and procedures or past audit results. Rather, the audit utilizes a practice-based methodology to assess day-to-day practices used by facility staff. Furthermore, the facility was advised that the burden of demonstrating compliance lies with the facility. This included expectations regarding privacy relative to interviews of employees, inmates, and other individuals. Discussion also included timeliness of information and documentation requests, corrective action (if any) and deadlines to be met.

Manager Harmon was asked to provide employee rosters, inmate rosters, and targeted inmate lists on the first day of the audit. Records of all sexual abuse and sexual harassment allegations, background check and training documents for the past 12 months were also requested. All documentation was requested to be available on the date of the on-site audit.

Initially the facility endeavored to use the OAS. However, due to time constraints audit documentation was ultimately delivered piecemeal via a combination of the OAS, PREA compliance manager emails, and PREA coordinator emails. Though not an ideal delivery method for pre-audit documentation. The auditor was able to accumulate enough information to assess compliance.

Research

On March 21, 2019, the auditor contacted Just Detention International pursuant to pg. 37 of the PREA Auditor Handbook regarding "Conducting Outreach to Advocacy Organizations." A response was received on March 21, 2019. As of March 21, 2019, Just Detention International had not received any PREA-related information regarding PATX.

An internet search of Patuxent Institution was conducted. The purpose of this search was to discover possible news items, legal issues, or other relevant information related to facility conditions. The search returned a 2015 news story regarding a lawsuit involving a transgender inmate who successfully sued the Maryland Department of Public Safety and Correctional Services (DPSCS). The court found that while at Patuxent Institution the inmate was subjected to sexual abuse through voyeurism, denied access to recreational activities, and failed to follow PREA guidelines regarding housing assignments for vulnerable populations. The court also noted that the facility had failed to train staff in how to effectively and professionally communicate with transgender inmates.

A 2016 story noted that a female correctional officer at Patuxent Institution was sexually assaulted by an inmate. The news report notes that the officer was conducting a routine escort when the inmate physically and sexually assaulted the officer. Staffing shortages were speculated to be a factor in the assault.

Maryland does have mandatory reporting laws for physical and sexual abuse of children and vulnerable adults. *Maryland Family Law Code Ann. § 5-704 (2013)* pertains to health practitioners, educators or human service workers, and police officers regarding the report of physical and sexual abuse of children and vulnerable adults. PATX houses only male inmates over the age of 18.

The auditor did receive three pieces confidential correspondence from two different inmates housed at Patuxent institution. One of the inmates was interviewed the other inmate was noted as having been paroled at the time of the audit.

On-Site

The on-site facility audit began Wednesday, April 10, 2019. Upon arrival, the audit staff were cleared through security and provided the provided visitor identification. A brief introductory meeting between the audit staff and facility staff was held. In attendance were all four-audit staff and ten PATX/DPSCS staff. Amongst those in attendance for PATX were the warden, PREA compliance manager (assistant warden), case management staff, medical staff, shift command, assistant program manager, acting chief and a security staff member.

Discussion involved an overview of the activities to be performed while on-site. A tentative outline of audit activities was discussed. The rosters, lists, and other documentation requested prior to the on-site audit were delivered. Tour security escort assignments were determined. Mental health care staff were requested to be available should anyone (staff or inmate) become uncomfortable or upset during the interview process. An emphasis on documentation requests, having access to all areas of the facility, and interview privacy was also discussed. Facility staff advised that access to all areas of the facility would not be an issue, documentation requests would be filled as requested, and measures had already been taken to ensure that offices would be available to conduct interviews.

The site review was guided by the *PREA Compliance Audit Instrument – Instructions for PREA Audit Tour* and facility layout documentation provided by the PREA coordinator. Due to the size of the facility audit staff were split into two groups for the escorted tour. During the tour all areas noted on the layout documentation were observed.

Areas toured by the audit staff include: the main gate, administrative building, visiting room, medical, receiving strip area, maintenance, gymnasium, intake/orientation, barbershop, library, food service, barber shop, staff dining, inmate dining, education, clothing issue room, sign shop, and Maryland Correctional Enterprises (MCE). A tour of all housing unit's including general population, mental health, segregation and female housing were conducted. Points of emphasis while conducting the tour were the posting of audit notices, contact information specific to PREA, staffing levels, camera and security mirror placement, opposite gender announcements, availability of phones, access to the ARP process, opposite gender viewing issues, and blind spots or hidden areas.

Much of the institution can be traversed through the tunnels and stairways located within the institution. Gate traffic officers control foot traffic (inmate and staff) through these areas. Camera coverage was also noted as present in these areas. Stairwells were noted as not being easily observable by staff; however, camera coverage is present to mitigate some concerns.

Housing units C,D,E,F,L,M, and N are tiered structures. General population tiers have an officer station, shower area, recreation/day room area with a bathroom, and laundry area. The recreation/day room was observed to have multiple telephones. Audit staff noted audit notices, hotline contact information, third party contact, and advocacy support services information posted within the units and accessible to the inmate population. The shower area was noted to provide the opportunity for staff to observe the area without exposing inmates to cross gender viewing. The dayroom/bathroom area was noted as a cross gender viewing issue and identified as such in the audit report.

Segregation and mental health tiers were observed to be single cell occupancy with a toilet inside the cell. Shower areas were noted to have shower curtains and curtain material barriers in place to prevent cross gender viewing by non-medical female staff. Additionally, the only female staff allowed to work in the mental health tiers are medical staff. This was observed to be the case when touring the mental

health units. The acute and sub-acute mental health cells do have camera coverage. However, these cameras do not record, and monitors are located in medical staff offices located on that specific tier. Camera monitors are behind a closed door and accessible only to medical staff.

Segregation tiers were noted as having mostly male staff; however, one female staff person was noted as working the tier on the day of the audit. Shower areas were observed to have shower curtains and curtain material barriers in place to prevent cross gender viewing by non-medical female staff. Segregation cells did not have camera coverage. Any cross-gender viewing would be incidental to routing cell checks during the conduct of rounds. Provided that non-medical female staff announce their presence upon entering the tier this does not violate the standards.

Segregation and mental health tiers have access to the phone on specific days. Inmates also have regular access to the recreation/TV room. Information regarding the audit, PREA hotline, and emotional support services was observed to be readily available. Furthermore, confidential correspondence received from the mental health unit demonstrated that inmates were provided the audit information.

B-Unit is a single-story dormitory setting that houses only male inmates. The recreation/day room area is flanked by dormitory style living quarters on either side. The recreation/day room was observed to have multiple telephones, shower, and restroom facilities. Audit staff noted audit notices, hotline contact information, third party contact, and advocacy support services information posted within the unit. Curtains were noted to provide adequate privacy in restroom areas. The shower area had a half-wall with a curtain covering the doorway. Camera coverage was observed to cover the area without compromising privacy requirements.

Patuxent Institution Women's (PIW) is the only building that houses female inmates. PIW inmates are isolated from male inmates by fencing and population traffic controls. PIW has its own visiting room, food service, yard/recreation area and two segregation cells. PIW segregation was observed to be empty during the on-site audit. Male staff are only allowed to work the control area and the food service area. The control area controls access to the unit and is physically configured in such a manner that observation into the housing unit is obstructed. One male staff was noted as working in the food service area. Camera coverage was observed to mitigate identified blind spots in the food service area. The visiting room was a single open room easily observed from any location and noted to have camera coverage. Only female staff work in the housing area. Cameras were noted as being present throughout the unit. Cameras were noted as covering the majority of the unit without compromising privacy requirements.

Staff and inmates conversed informally with the audit team. Generally, inmates were aware of the audit and its purpose via the audit notices. Furthermore, inmates were able to articulate knowledge and awareness of the PREA information posted throughout the institution. Likewise, most inmates remembered receiving PREA information within days of arriving at the facility.

Interviews

The following interview guides were utilized during the conduct of interviews:

- *Interview Guide for Agency Head (or Designee)*
- *Interview Guide for Inmates*
- *Interview Guide for PREA Compliance Managers and PREA Coordinators*
- *Interview Guide for a Random Sample of Staff*
- *Interview Guide for Specialized Staff*
- *Interview Guide for Warden (or Designee)*
- *Interview Guide for Inmates*
- *Supplementary Questionnaire on Community Advocate Engagement*

Staff and inmate interviews were conducted on 04/10/2019 through 04/11/2019. All random employee, contract workers, administrators, and inmate interviews were selected at random by the lead auditor. Audit staff were allowed access to offices or other semi-private spaces for purpose of conducting interviews. These areas considered both the privacy necessary to conduct the interview and safety and security needs of the institution. Interviews with segregation and mental health tier inmates were conducted in day rooms without staff present in the immediate area.

The total number of employees who may have contact with inmates was reported to be 455. A total of 15 random employees were selected by the auditor from rosters provided by the facility. Selections were made at random with the intent to capture a representative sample of employees across all levels of employment and work shifts. At least one employee was interviewed from each shift. Random employee interviews were comprised of seven employees from first shift (0800-1600 hours), six employees from second shift (1600-2400 hours) and two employees from third shift (2400-0800 hours).

Twenty-one specialized interviews were conducted. This includes interviews of SAFE/SANE personnel from a local hospital and a representative from the Maryland Coalition Against Sexual Assault whose organization provides advocacy and emotional support services. The individuals selected for specialized interviews were selected based on how their day-to-day job duties best fit the interview protocol. One volunteer and one contract staff were interviewed. Audit staff also conducted interviews of the agency head designee, facility head designee, PREA compliance manager, PREA coordinator, agency contract administrator, victim advocacy and outside support services, SAFE/SANE, intermediate/higher-level staff, medical, human resources/administration, facility investigator, agency investigator, staff who perform risk screening, incident review team staff, retaliation monitoring staff, first responder, case management, and intake staff.

The auditor followed the *PREA Auditor Handbook* guidance regarding the number and composition of inmate interviews to be conducted. The facility population on the first day of the audit was 917. Pursuant to the *PREA Auditor Handbook* a total of 30 inmate interviews (15 random and 15 targeted) was required to be completed. A total of 35 interviews (24 random and 11 targeted) were completed during the audit. At the time of the onsite audit, the facility reported they had no inmates in the youthful, or lesbian targeted categories. Additional interviews in the random or other specialized categories were conducted to make up for the lack of specialized interviews.

Multiple inmates from the disabled and limited English proficient (3); gay or bisexual (3); inmates who reported sexual victimization during risk screening (3); and inmates who reported sexual abuse (2) were interviewed. Included in the interview totals is one interview conducted as a result of confidential correspondence received from an inmate housed at the institution. Again, inmates were aware of the

audit and generally understood why audit staff were on-site.

File Review

Audit staff conducted an examination of human resources, training, medical and mental health, intake/risk screening, inmate PREA education, and investigation records. All records were selected by the audit staff from the lists of employees and inmates provided by the facility. Human resources records were reviewed to ensure compliance with the background check and hiring and promotion standards. Training records were reviewed with respect to PREA employee training and PREA specialized training.

Inmate records were reviewed to ensure intake risk screening was completed within 72 hours and to verify that re-assessment screening was completed within 30 days. The file review included receipts related to intake education and comprehensive education information provided pursuant to Standard 115.33.

A list of all sexual abuse or sexual harassment investigations for the past 12 months was requested. A total of twelve investigations were conducted during the past twelve months. Six of these investigations were selected by the auditor for review. Each file was reviewed to see whether the investigation was done promptly, thoroughly, and objectively. The review included whether interviews were conducted with victims, perpetrators, and witnesses. Each report was viewed for a description of the investigative facts and findings, summaries of interviews, evidence collection, victim services, the completion of an incident review, documentation of retaliation monitoring, and notice of disposition to victim.

Exit Meeting

On the evening of April 11, 2019, the audit team concluded remaining onsite tasks. An exit meeting was held between the audit staff and facility staff in the administration building conference room. In attendance were all four audit staff and PATX employees. Discussion included general observations and preliminary findings. The post-audit phase was described and facility employees were advised about what to expect next.

Facility Characteristics

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

Opened in 1955, Patuxent Institution is a medium-security adult prison. Patuxent Institution is a campus style facility consisting of 14 separate building structures. The physical plant is rectangular in shape and has a rather large footprint. Upon leaving the main gate/entrance there is a large courtyard area surrounded by the remaining buildings. The entire institution is surrounded by two layers of security fencing including razor ribbon. The facility has one daily operations sally port and one emergency sally port.

PATX houses both adult male and female inmates. PATX has a maximum capacity of 1200 inmates with an average daily population of 900. Security levels range from medium to the acute mentally ill. The institution employs several housing unit configurations. The general population tiers and PIW are

generally double bunked. Segregation and mental health are single occupancy cells. B unit is a dormitory setting.

There are 120 cameras installed throughout the facility. A complete list of all facility cameras was obtained, reviewed, and retained for audit purposes. 50 of these cameras were noted as surveillance only and do not have recording capabilities. These cameras were noted as being located in the mental health tiers. Additional camera coverage was noted in throughout the institution in stairwells, kitchen, isolated areas, and PIW.

PATX employs both security and non-security security staff. The facility reported 455 employees who may have contact with inmates. The facility is managed by a warden, assistant warden, security chief, major, captains, lieutenants and sergeants. Daily operations are managed by captains, lieutenants, and sergeants who oversee a line staff of officers. The facility has three shifts: first (0800-1600 hours), second (1600-2400 hours) and third (2400-0800 hours).

PATX offers a variety of employment and programming options to the inmate population. Employment options include the Maryland Correctional Enterprises (MCE) sign shop, MCE sublimation shop, dietary, observation aids, clerk, sanitation, maintenance, and tutoring. Programming options include Alcoholics Anonymous, Narcotics Anonymous, Alternatives to Violence, Tool Book, Eligible Persons programming, general education, and barber school.

Summary of Audit Findings

*The summary should include the number of standards exceeded, number of standards met, and number of standards not met, **along with a list of each of the standards in each category**. If relevant, provide a summarized description of the corrective action plan, including deficiencies observed, recommendations made, actions taken by the agency, relevant timelines, and methods used by the auditor to reassess compliance.*

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

Number of Standards Exceeded: 0

Number of Standards Met: 45

Number of Standards Not Met: 0

Summary of Corrective Action (if any):

Audit Findings:

115.13(a): In accordance with provision 115.13(a) the agency shall ensure that PATX develops and documents a PREA-compliant staffing plan that demonstrates how the 11 required factors were taken into consideration to ensure the protection of inmates against sexual abuse within the facility.

115.13(c) The agency does have a process in place for conducting a staffing plan review which is guided by policy. However, PATX did not provide a copy of the most recent staffing plan review. PATX shall

provide the most recent staffing plan review.

Post Audit Corrective Action Verification:

115.13(a): A facility staffing plan was provided. The plan indicates consideration for the 11 required factors contained within standard 115.13. The staffing plan noted several recommendations to add posts to facility operations. The rationale for these positions was provided in the narrative of the staffing plan. Overall the recommendations were made in order to enhance the safety and security of the institution and ensure the facility is operating in the most efficient manner possible. The plan accounts for increased staffing in specific areas of the institution in order to reduce assaultive behavior. The plan also considers increased staffing for specific areas of the institution during times of increased inmate traffic. Several post requests were noted for administrative functions such as the audit office, control center, and the ARP office. These recommendations were noted as being necessary to enhance efficiency and compliance within institution. Based on the above, the facility has demonstrated compliance with provision 115.13(a).

115.13(c): The facility did provide a copy of the most recent staffing plan review. A review of this document noted no adjustments to the current staffing plan. The document was electronically signed by the agency PREA coordinator.

Audit Findings:

115.15(d) The facility did not provide policy that requires staff of the opposite gender staff to announce prior to entering the unit. The facility shall provide policy requiring of opposite gender to announce their present when entering a unit.

115.15(d) General population housing units (C,D,E & F) were observed to allow cross-gender viewing from the hallway through a mesh screen into activity room restroom. The facility shall implement policies and procedures that enable inmates to perform bodily functions without non-medical staff of the opposite gender viewing their breasts, buttocks, or genitalia.

Corrective Action Verification:

115.15(d) The facility did provide policy that requires staff of the opposite gender staff to announce prior to entering the unit. PATX.020.0026 B.2.d states, "Staff of the opposite gender is required to announce their presence when entering a housing unit where inmates are likely to be showering, performing bodily functions, or changing clothing." Based on the above, the facility has demonstrated substantial compliance with provision 115.15(d).

115.15(d) The facility provided documentation of physical plant modifications to general population housing units (C,D,E & F). The purpose of these modifications is to enable inmates to perform bodily functions without non-medical staff of the opposite gender viewing their breasts, buttocks, or genitalia. Upon review it was noted that the facility installed solid physical barriers that obstruct cross-gender viewing from the hallway through the mesh screen into activity room restroom. Based on the above, the facility has demonstrated substantial compliance with provision 115.15(d).

Audit Findings:

115.16: During interviews staff were unable to clearly articulate the limitations to inmate interpreter use. The facility shall train staff on limitations to inmate interpreter use.

Corrective Action Verification:

115.16: The facility provided documentation demonstrating that all staff had received information regarding limitations to inmate interpreter use. The facility issued direction stating, "the Department shall not rely on inmate interpreters, inmate readers, or other types of inmate assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the inmate's safety, the performance of first response duties, or the investigation of the inmate's allegations." This instruction also noted several resources available to staff to obtain additional information pertaining to the use of inmate interpreters. All facility staff were required to sign acknowledging they had reviewed the written directive read and understand the agency's use of the interpreter's policy. Signature sheets signed by staff accompanied this documentation. Based on the above, the facility has demonstrated substantial compliance with provision 115.16(c).

Audit Findings:

115.18(b): Audit documentation noted that PIW received new video monitoring equipment in 2018. This equipment was installed in the kitchen, housing unit day rooms, and isolated areas. However, the facility did not provide documentation that demonstrates consideration for how the video monitoring technology would enhance the agency's ability to protect inmates from sexual abuse.

Corrective Action Verification:

115.18(b): The facility did provide documentation that demonstrates consideration for how the video monitoring technology would enhance the agency's ability to protect inmates from sexual abuse. This information was provided on the *Review of Areas in the Facility* letter dated March 5, 2017. Based on the above, the facility has demonstrated compliance with provision 115.18(b).

Audit Findings:

115.34(a)&(c): Investigator training records are insufficient to demonstrate compliance. Training records for the PATX based investigators necessary to demonstrate compliance with provision 115.34(a) or provision 115.34(c). PATX shall submit training records for PATX based investigators.

Corrective Action Verification:

The facility provided *Patuxent Institution Directive PATX.020.0026*. Section .03J states, "All allegations of staff sexual misconduct or inmate on inmate sexual abuse investigations or any PREA related criminal and administrative investigations will be conducted by the Internal Investigative Division (IID)." Thus, all sexual abuse investigations are referred to IIU detectives who have received specialized training pursuant to the standard. Considering the documentation provided, evidence gathered during the interview process, and a review of facility investigative records the facility has demonstrated that facility-based investigators do not conduct sexual abuse investigations. All sexual abuse investigations are conducted by IIU detectives. Based the above, the facility has demonstrated compliance with provisions 115.34(a) and provision 115.34(c).

Audit Findings:

115.41(d), 115.41(f), and 115.41(g): A review of the *PREA Intake Screening* form revealed that it does not consider whether the inmate is perceived to be LGBTI or gender nonconforming. Consideration is specifically required pursuant to provision 115.41(d)(7). Additionally, reliance upon a non-compliant risk

screening instrument fails provision 115.41(f) regarding risk screening re-assessments completed within 30-days. Though re-assessments may be completed within 30-days; the risk screening reassessment is guided by a non-compliant risk screening instrument. Furthermore, PATX may be conducting risk screening reassessments 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. The risk screening instrument itself is non-compliant with Standard 115.41. Again, the risk screening reassessment is guided by a non-compliant risk screening instrument. The agency shall amend the screening instrument to take into consideration the criteria of provision 115.41(d)(7).

Corrective Action Verification:

The agency provided the *Instructions for PREA Intake Screening Instrument* that were not included with the original audit documentation. These instructions explicitly state, *"The screening official may determine that an inmate is gender non-conforming based on his or her observations."* The instructions are lengthy, thorough, and require screening staff to make determinations based on observations and information from past incarcerations. Considering this documentation, it has been determined that the facility does conduct risk screening in accordance with standard 115.41.

Audit Findings:

115.42(a): The facility did not provide documentation that demonstrates information from the risk screening is 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. The facility shall provide documentation that demonstrates information from the risk screening is 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 pursuant to 115.42(a).

115.42(b): The facility did not provide documentation that demonstrates information from the risk screening is utilized to make determinations about how to ensure the safety of each inmate. The facility shall provide documentation that demonstrates information from the risk screening is utilized to make determinations about how to ensure the safety of each inmate pursuant to 115.42(b).

Audit Findings:

115.51(b): The facility shall educate inmates that MCASA serves as the external entity for inmates to make reports of sexual abuse and sexual harassment.

Corrective Action Verification:

115.51(b): The facility has implemented additional education materials regarding MCASA's services. A brochure has been developed that provides information regarding investigations, advocacy, reporting, forensic examinations, emotional support and other resources available to the inmate population. The brochure also contains contact information to obtain these services or resources. Each inmate will receive a personal copy of this brochure during intake orientation. Upon completion of intake orientation inmates will sign a receipt acknowledging participation in education that includes information regarding MCASA services and receipt of the MCASA brochure. A copy of several signed orientation receipts was obtained, reviewed, and retained for audit purposes. Additionally, the facility also provided photographic evidence of enhanced signage within the institution. The signage serves to enhance the current inmate population's awareness of MCASA services. Based on the above, the facility has demonstrated substantial

compliance.

Audit Findings:

115.53(a): The facility shall educate the inmate population about the emotional support services provided through MCASA.

Audit Findings:

115.63(a): The agency shall ensure that upon receiving an allegation that an inmate was sexually abused while confined at another facility, the head of the facility that received the allegation shall notify the head of the facility or appropriate office of the agency where the alleged abuse occurred.

115.63(b): The agency shall ensure that upon receiving an allegation that an inmate was sexually abused while confined at another facility, the head of the facility that received the allegation shall notify the head of the facility or appropriate office of the agency where the alleged abuse occurred as soon as possible, but no later than 72 hours after receiving the allegation.

Audit Findings:

115.65(a): The facility shall submit a written institutional plan to coordinate actions taken in response to an incident of sexual abuse, among staff first responders, medical and mental health practitioners, investigators, and facility leadership.

Corrective Action Verification:

115.65(a): The facility did submit a written institutional plan to coordinate actions taken in response to an incident of sexual abuse, among staff first responders, medical and mental health practitioners, investigators, and facility leadership. The plan was submitted in the form of *Patuxent Institution Facility Directive PATX.020.0026*. The plan itself consists of procedures to follow when responding to an incident of sexual abuse. The plan directs staff first responders, medical and mental health personnel, investigative staff, and facility leadership on the steps to be taken to ensure the appropriate response to an incident of sexual abuse. The plan includes ensuring the safety of the alleged inmate, advocacy, investigation referrals and access to emergency medical and mental health services including forensic examinations. The plan also covers staff reporting and documentation requirements, follow up medical and mental health treatment, inmate notifications, disciplinary sanctions and sexual abuse incident review requirements. Based on the above, the facility has demonstrated compliance with provision 115.65(a).

Audit Findings:

115.67(c): Retaliation monitoring is required for 90 days following a report of sexual abuse. The facility shall provide documentation that demonstrates retaliation monitoring is conducted pursuant to provision 115.67(c).

115.67(d): None of the documentation provided demonstrates that periodic status checks are conducted in conjunction with retaliation monitoring. The facility shall provide documentation that demonstrates periodic status checks are conducted in conjunction with retaliation monitoring pursuant to provision 115.67(d).

Corrective Action Verification:

115.67(c) & 115.67(d): The facility provided documentation demonstrating that retaliation monitoring is conducted. A review of this documentation indicates that retaliation monitoring is conducted by a designated person. Additionally, the documentation demonstrates that retaliation monitoring continues for a minimum of 90 days following a report of sexual abuse. Retaliation monitoring is documented on the *Retaliation Monitoring* form and includes periodic status checks. Upon completion the form is reviewed and signed by the facility PREA Compliance Manager. Based on the above, the facility has demonstrated compliance with provision 115.

Audit Findings:

115.71(b) Investigator training records are insufficient to demonstrate compliance. The facility shall submit training records for the PATX investigator. Training documentation shall demonstrate that the PATX investigator has completed specialized training in the conduct of sexual abuse and sexual harassment investigations.

Audit Findings:

115.73(a): The documentation does not support that inmates are informed as to whether an allegation has been determined to be substantiated, unsubstantiated, or unfounded. The facility shall provide documentation demonstrating that inmates are informed as to whether an allegation has been determined to be substantiated, unsubstantiated, or unfounded.

115.73(c): The facility had only one investigation that required notification pursuant to provision 115.73(c). Notification documents were not provided. The facility shall provide documentation demonstrating that following an inmate's allegation that a staff member has committed sexual abuse against the inmate, the agency shall subsequently inform the inmate (unless the agency has determined that the allegation is unfounded) whenever: (1) The staff member is no longer posted within the inmate's unit; (2) The staff member is no longer employed at the facility; (3) The agency learns that the staff member has been indicted on a charge related to sexual abuse within the facility; or (4) The agency learns that the staff member has been convicted on a charge related to sexual abuse within the facility.

Corrective Action Verification:

115.73(a): The facility provided documentation that demonstrates inmates are informed as to whether an allegation has been determined to be substantiated, unsubstantiated, or unfounded. Furthermore, in one instance it was noted that notification was provided to an inmate who made a sexual harassment complaint. Based the above, the facility has demonstrated compliance with provisions 115.73 (a).

115.73(c): The facility had only one investigation that required notification pursuant to provision 115.73(c). Documentation was provided that demonstrates notification was made pursuant to provision 115.73(c). Notification documents noted the type of allegation, the status of the investigation, investigator, and the date of the investigation. Based the above, the facility has demonstrated compliance with provisions 115.73 (c).

Audit Findings:

115.86 (a)(b)(c)(d)(e) The facility reported one incident of unsubstantiated sexual abuse in the past 12 months. Based on facility investigation records this would be the only investigation that would require a

sexual abuse incident review. However, the facility did not provide the sexual abuse incident review documentation.

115.86(d): A review of the sexual abuse incident review documentation does not demonstrate consideration regarding whether or not the incident was motivated by the inmate's lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status. The standards explicitly require a report of finding that includes but is not necessarily limited to determinations made pursuant to every element indicated in paragraphs (d)(1)-(d)(5) of this section. The sexual abuse incident review for should be revised to reflect consideration for whether or not the incident was motivated by the inmate's lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status.

PREVENTION PLANNING

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

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

115.11 (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*)

Instructions for Overall Compliance Determination Narrative

The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's

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

Documentation:

- *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*
- *Secretary Directive DPSCS.020.0026 Prisoner Rape Elimination Act – Federal Standards Compliance*
- *Executive Directive OPS.050.0001 Sexual Misconduct - Prohibited*
- *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited*

Interviews:

- Interview with PREA Coordinator
- Interview with PREA Compliance Manager

Site Review:

- Site Review Observations

Findings:

115.11(a)

The Department of Public Safety and Correctional Services submitted the agency *Prison Rape Elimination Act Audit Manual* as the authoritative document that guides agency compliance regarding provision 115.11(a). The manual is a comprehensive 385-page catalogue of agency policies and other documentation related to PREA. Collectively, the documents contained within the manual comprise the agency's sexual abuse and sexual harassment policy. The directives contained within the manual outline and guide the agency's approach to preventing, detecting, and responding to sexual abuse and sexual harassment. Additionally, the directives also contain definitions and direction regarding the strategies and methods utilized to reduce and prevent sexual abuse and sexual harassment of inmates. The manual was authorized by then Deputy Secretary of Operations, J. Michael Zeigler. As of April 2019, Robert L. Green has been appointed to the position of Secretary of the Maryland Department of Public Safety and Correctional Services. The manual reiterates the standard language verbatim and uses the term "Department" in place of the term "Agency."

Secretary's Directive DPSCS.020.0026 section .03 states, "The Department does not tolerate sexual abuse or sexual harassment of an inmate." *DPSCS.020.0026* provides policy requirements regarding reporting incidents of sexual abuse and sexual harassment, establishes and outlines the responsibilities of the PREA coordinator position. The directive also establishes and outlines the responsibilities of the PREA Compliance Manager position, responsibilities of the human resources services division, and requirements for performing background checks. Section .04 provides definitions for sexual abuse, sexual harassment, and voyeurism. The definitions contain the exact verbiage of the adult *Prisons and Jails* standards with the exception that the standards speak to "staff" whereas agency directive refers to the "employee."

Executive Directive OPS.050.0001 describes assigns responsibilities and established procedures for reporting, responding to, investigating, processing, and resolving complaints of sexual misconduct. OPS.050.0001 speaks directly to employee “sexual misconduct” of an inmate to include sexual abuse and sexual harassment. Section .03(A)(1)-(2) states, “The Department does not: tolerate sexual misconduct by an employee, by either omission or commission.” It was noted that sexual abuse and sexual harassment are contained within the definition of “sexual misconduct.” Section I(1)-(5) describes sanctions for those found to have participated in prohibited behaviors.

Executive Directive OPS.200.0005 describes responsibilities and procedures for reporting, responding to investigating, processing, and resolving a complaint of inmate on inmate sexual conduct. Section .03(A)(1)-(2) states, “The Department does not: tolerate inmate on inmate sexual conduct.” OPS.200.0005 section 10 defines “sexual conduct” as behavior or acts of a derogatory or offensive sexual nature by an inmate directed toward another inmate. It was noted that sexual abuse and sexual harassment are contained within the definition of “sexual conduct.” Section I(1)-(4) describes sanctions for those found to have participated in prohibited behaviors.

Based on the above, the agency has a written policy mandating zero tolerance toward all forms of sexual abuse and sexual harassment. Additionally, the *Prison Rape Elimination Act Audit Manual* does outline the agency’s approach to preventing, detecting, and responding to sexual abuse and sexual harassment. The facility has demonstrated substantial compliance with provision 115.11(a).

115.11(b)

The Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual and Secretary’s Directive DPSCS.020.0026 establishes and outlines the responsibilities of the agency-wide PREA coordinator position. The manual reiterates the standard language verbatim and uses the term “Department” in place of the term “Agency.” Section .05(A) states, “The Secretary shall designate a Department PREA Coordinator (Coordinator).” Additionally, section .05(B) states, “The Coordinator shall have sufficient time and appropriate authority to develop, implement, and oversee Department activities taken to comply with PREA standards in Department corrections and detention facilities,” establishes the agency’s PREA Coordinator.

David Wolinski (Coordinator Wolinski) is currently the agency’s upper-level agency-wide PREA Coordinator. Coordinator Wolinski also serves as the Special Assistant to the Deputy Secretary for Operations which places him as an assistant to the number two position within the entire MDPSCS. Therefore, Coordinator Wolinski is in a position to have the authority and impact necessary to carry out the duties of a PREA Coordinator as required by provision 115.11(b).

Section .05(B)(1)-(7) establishes the coordinator’s responsibilities regarding all facets of the agency’s zero tolerance policy for sexual abuse and sexual harassment of inmates. Likewise, the coordinator is responsible for ensuring compliance with federal PREA standards regarding prevention planning, response planning, training and education, risk screening, reporting, investigations, discipline, medical and mental health care, data collection, audits, and auditing and corrective action. Additionally, the coordinator is also responsible for maintaining a list of facility compliance managers, serves as chair of the PREA Committee, authorizes departmental procedures related to prevention, detection, and response to allegations of inmate sexual abuse and sexual harassment.

The agency PREA Coordinator reported having sufficient time and authority to manage all PREA related responsibilities. There are 23 PREA compliance managers within the MDPSCS. The agency coordinator reports having regular contact with agency compliance managers through email, telephone, and during facility visits. Furthermore, the agency coordinator reported having the authority to make changes and implement policy on behalf of the agency in order to improve PREA efforts. When issues are identified Wolinski reports that he will personally communicate with the appropriate administrator to address the problem and attempt to resolve the issue permanently.

The agency does have an upper-level, agency-wide PREA coordinator. Additionally, based on the interview the agency coordinator does have sufficient time and authority to develop, implement, and oversee agency efforts to comply with the federal PREA standards. Based on the above, the facility has demonstrated substantial compliance with provision 115.11(b).

115.11(c)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* and *Secretary's Directive DPSCS.020.0026* establishes and outlines the responsibilities of the facility PREA compliance manager. The manual reiterates the standard language verbatim and uses the term "Department" in place of the term "Agency." Section .05(C)(1) states, "The managing official for each Department detention, correctional and community confinement facility, shall identify a PREA Compliance manager (PCM) for that facility." Per the directive, "The managing official may be the PCM or recommend to the Coordinator, for approval, a designee to be the facility PCM." Additionally, Section .05(C)(1)(b) states, "The managing official shall ensure that an employee recommended to the Coordinator as the facility PCM has the authority to independently act on behalf of the managing official on facility PREA compliance activities."

PATX has appointed the assistant warden to the position of PREA compliance manager. Documentation indicates that the assistant warden reports directly to the warden and is one position removed from the warden. On-site observations indicate that the PCM does have direct access to facility administration.

During an interview, the PREA compliance manager reported having adequate time to manage all PREA related responsibilities. The compliance manager reported that alerts and announcements are reviewed regularly to ensure compliance. Facility compliance efforts are coordinated through communication with the staff to determine what issues need to be resolved and implement ways to be compliant.

The facility does have a designated PREA compliance manager. Additionally, the PREA compliance manager does have sufficient time and authority to coordinate the facility's efforts to comply with the federal PREA standards. Based on the above, the facility has demonstrated substantial compliance with provision 115.11(c).

Recommendations:

- None

Corrective Action:

- None

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

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

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*)

Instructions for Overall Compliance Determination Narrative

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

Documentation:

- *Threshold Contract*
- *Threshold Audit Report*

Interviews:

- Interview with Agency Contract Administrator

Site Review:

- None

Findings:**115.12(a)**

The Maryland Department of Public Safety and Correctional Services (MDPSCS) contracts with "Threshold, Inc." for its pre-release services. Prior to the on-site visit, agency coordinator Wolinski provided the auditor with a copy of the "Threshold, Inc." contract dated August 6, 2018. "Threshold, Inc." is the only agency contracted by the MDPSCS for the confinement of its inmates.

Sections 25.3 and 25.4 of the contract state, "It shall comply with all federal, State and local laws, regulations, and ordinances applicable to its activities and obligations under this contract, and; shall fully comply with the standards set forth in the Prison Rape Elimination Act of 2003, and with all applicable regulations issued by the U.S. Department of Justice." Agency PREA Coordinator, David Wolinski is the agency contract administrator \ for the "Threshold, Inc." contract. Wolinski indicates that pursuant to the agreement "Threshold, Inc." will comply with PREA.

The MDPSCS does contract for the confinement of its inmates with "Threshold, Inc." Furthermore, the obligation of the contractor to comply with PREA standards is clearly stated within the contact language. Based on the above, the facility has demonstrated substantial compliance with provision 115.12(a).

115.12(b)

The Maryland Department of Public Safety and Correctional Services (MDPSCS) contracts with "Threshold, Inc." for its pre-release services. Prior to the on-site visit, Coordinator Wolinski provided the auditor with a copy of the "Threshold, Inc." contract dated August 6, 2018. "Threshold, Inc." is the only agency contracted by the MDPSCS for the confinement of its inmates.

The inspections and evaluations section of the contract states, "The Contractor shall permit the Contract Monitor or authorized representatives to conduct audits, physical inspections, and evaluations of the Center at any time during the contract period. The Department's Contract Monitor or authorized representatives may enter the Center at any time without prior notice to the Contractor."

Additionally, MDPSCS provided a copy of the previous PREA audit completed at "Threshold, Inc." The audit report dated May 22, 2018 indicates that "Threshold, Inc." is in full compliance with federal PREA standards. Furthermore, it was noted that the reported was posted on the agency's website.

Coordinator Wolinski currently serves as the contract administrator for the "Threshold, Inc." contract. Wolinski indicated that he personally visits the facility on a bi-annual basis. Wolinski indicated that "Threshold, Inc." is treated like any other facility in the agency as is currently scheduled to be audited in the second year of the audit cycle.

Based on the above, "Threshold, Inc." is monitored for compliance with the PREA standards. Based on the above, the facility has demonstrated substantial compliance with provision 115.12(b).

Recommendations:

- None

Corrective Action:

- None

Standard 115.13: Supervision and monitoring**All Yes/No Questions Must Be Answered by the Auditor to Complete the Report****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*)

Instructions for Overall Compliance Determination Narrative

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

Documentation:

- *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*
- *Executive Directive OPS.115.0001 Sexual Misconduct – Prohibited*
- *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited*
- *Staffing Analysis and Overtime Management Manual*
- *Unannounced Rounds Logbook Signatures*

Interviews:

- PREA Coordinator
- Warden or Designee
- PREA Compliance Manager
- Intermediate or Higher-Level Staff

Site Review:

- None

Findings:

115.13(a)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*, and *Executive Directive OPS.115.0001 Sexual Misconduct - Prohibited* serve as the authoritative

guidance regarding development and implementation of a staffing plan. The manual reiterates the standard language verbatim and uses the term "Department" in place of the term "Agency." *Executive Directive OPS.115.0001 Sexual Misconduct – Prohibited*, Section .05 states the requirements of a facility staffing plan. These requirements parallel the eleven requirements stated in provision 115.13(a). The *Staffing Analysis and Overtime Management Manual* provides guidance regarding minimum operational staffing levels and documenting any deviations regarding these requirements.

Interviews with the warden and facility PREA compliance manager indicate that the facility does develop and comply with a facility staffing plan. The compliance manager reported that yearly staffing plan review meetings are conducted, and that the facility does consider each element of provision 115.13(a). Likewise, the warden indicated that annual review meetings are conducted, and that the facility is never non-compliant due to minimum staffing requirements.

A staffing plan was not submitted via OAS, email, or provided during the on-site visit. Thus, there is no staffing plan to evaluate. The facility shall provide a PREA compliant staffing plan that provides a written rationale indicating the reasons why staff and technology are deployed pursuant to the requirements of provision 115.13(a). Based on the above, the facility has not demonstrated compliance with provision 115.13(a).

115.13(b)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*, and *Executive Directive OPS.115.0001 Sexual Misconduct - Prohibited* serve as the authoritative guidance regarding development and implementation the facility staffing plan. The manual reiterates the standard language verbatim and uses the term "Department" in place of the term "Agency." *Executive Directive OPS.115.0001 Sexual Misconduct – Prohibited*, Section .05 states the requirements of a facility staffing plan. These requirements parallel the eleven requirements stated in provision 115.13(a). The *Staffing Analysis and Overtime Management Manual* provides guidance regarding minimum operational staffing levels and requirements regarding documenting any deviations regarding these requirements.

The *Staffing Analysis and Overtime Management Manual* outlines the minimum requirements for the development of a facility staffing plan and the requirements for documenting any deviations from the staffing plan. The facility staffing plan is developed with these requirements in mind and a daily *Post Assignment Worksheet DPSCSD #115 (PAW)* is developed to deploy staff in accordance with the stated staffing plan. The PAW identifies positions, the staffing requirements for those positions, and reconciles staffing deployment in accordance with the position requirements outlined in the staffing plan. Any deviations from the staffing plan are documented on the PAW with an explanation as to why that position was closed.

The warden reported that the facility does develop and comply with a staffing plan. The warden reported that the facility is never non-compliant. It was reported that all positions have minimum operating levels. Certain positions may be collapsed to ensure proper staffing levels are maintained. However, it was noted that non-essential positions are collapsed to ensure minimum staffing requirements are met.

PAW's for April 9, 2019; April 1, 2019; and April 11, 2019 were obtained, reviewed, and retained for audit purposes. The PAW identifies deviations from the shift complement such as overtime, training, and sick

leave. The PAW also identifies any positions that were collapsed and documents the reason for that position being collapsed. Throughout the on-site tour it was noted that staff are deployed in a manner consistent with the PAW. Staff presence was prevalent throughout the institution.

Through document analysis, interviews, and onsite observations, PATX does document and justify all deviations. Based on the above, the facility has demonstrated substantial compliance with provision 115.13(b).

115.13(c)

The Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual and Executive Directive OPS.115.0001 Sexual Misconduct – Prohibited serve as the authoritative documents regarding this provision. The manual reiterates the standard language verbatim and uses the term “Department” in place of the term “Agency.” Executive Directive OPS.115.0001 Sexual Misconduct – Prohibited, section .05(c)(3) states, “At least annually, or on an as needed basis, consulting with the Department PREA Coordinator to review, assess, determine, and document if adjustments are necessary to the facility’s: (a) Staffing plan based on topics identified under §.05C(2)(d) of this directive; (b) Use and deployment of video monitoring system and other surveillance technology; and (c) Resources available to commit to ensure compliance with the established staffing plan.” The staffing plan review is documented on an agency-wide standardized form.

Interviews with the agency PREA coordinator indicates that staffing plan reviews occur annually. It was reported that staffing plan reviews are forwarded from the warden to the agency PREA coordinator for review. Upon receipt the agency PREA coordinator will review the staffing plan documentation with facility and department administrators.

The agency does have a process in place for conducting a staffing plan review which is guided by policy. However, PATX did not provide a copy of the most recent staffing plan review. PATX shall provide the most recent staffing plan review. Based on the above, the facility has not demonstrated compliance with provision 115.13(c).

115.13(d)

The Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual and Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited serve as the authoritative guidance regarding provision 115.13(d). The manual reiterates the standard language verbatim and uses the term “Department” in place of the term “Agency.” Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited, .05 Section D states “(a) Take reasonable actions to eliminate circumstances that may result in or contribute to an incident of sexual misconduct that include conducting and documenting security rounds to identify and deter staff sexual abuse and harassment that are performed: (i) Randomly on all shifts; (ii) Except when necessary to prevent prohibited cross gender viewing of an inmate or as part of a legitimate facility operation, unannounced in order to prohibit staff from alerting other staff that the rounds are being conducted; and (iii) At a frequency established by the managing official” regarding the conduct of unannounced rounds.

An interview with intermediate or higher level staff indicated that unannounced rounds for the purpose of identifying and deterring staff sexual abuse and sexual harassment are conducted. Rounds are documented in logbooks and are noted as rounds conducted for the purposes of “PREA” compliance.

During the on-site tour logbooks were reviewed to verify that supervisory rounds were being conducted

in accordance with policy. Unannounced supervisory rounds were either noted in red ink or highlighted and written logbooks. Upon review it was noted that unannounced rounds are being conducted on all shifts in accordance with agency policy.

Through document analysis, interviews, and on-site observations, PATX does conduct and document unannounced rounds. The agency does have a policy in place that requires these rounds to be unannounced and documented. Documentation, interviews, and on-site observations indicate that unannounced rounds are being conducted. Based on the above, the facility has demonstrated substantial compliance with provision 115.13(d).

Recommendations:

- None.

Corrective Action:

- 115.13(a): In accordance with provision 115.13(a) the agency shall ensure that PATX develops and documents a PREA-compliant staffing plan that demonstrates how the 11 required factors were taken into consideration to ensure the protection of inmates against sexual abuse within the facility.
- 115.13(c) The agency does have a process in place for conducting a staffing plan review which is guided by policy. However, PATX did not provide a copy of the most recent staffing plan review. PATX shall provide the most recent staffing plan review.

Corrective Action Verification:

- 115.13(a): A facility staffing plan was provided. The plan indicates consideration for the 11 required factors contained within standard 115.13. The staffing plan noted several recommendations to add posts to facility operations. The rationale for these positions was provided in the narrative of the staffing plan. Overall the recommendations were made in order to enhance the safety and security of the institution and ensure the facility is operating in the most efficient manner possible. The plan accounts for increased staffing in specific areas of the institution in order to reduce assaultive behavior. The plan also considers increased staffing for specific areas of the institution during times of increased inmate traffic. Several post requests were noted for administrative functions such as the audit office, control center, and the ARP office. These recommendations were noted as being necessary to enhance efficiency and compliance within institution. Based on the above, the facility has demonstrated compliance with provision 115.13(a).
- 115.13(c): The facility did provide a copy of the most recent staffing plan review. A review of this document noted no adjustments to the current staffing plan. The document was electronically signed by the agency PREA coordinator.

Standard 115.14: Youthful inmates

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

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*)

Instructions for Overall Compliance Determination Narrative

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

Documentation:

None

Interviews:

None

Site Review:

None

Findings:

PATX does not house youthful inmates. Pre-audit and onsite discussions indicated that youthful inmates are not housed at PATX. On-site observations did not indicate the presence of youthful offenders. Standard 115.14 does not apply insofar as PATX does not house youthful inmates. Therefore, the facility has demonstrated compliance with all provisions of Standard 115.14.

Recommendations:

- None

Corrective Action:

- None

Standard 115.15: Limits to cross-gender viewing and searches**All Yes/No Questions Must Be Answered by the Auditor to Complete the Report****115.15 (a)**

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

115.15 (b)

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

115.15 (c)

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

- Does the facility document all cross-gender pat-down searches of female inmates?
☒ Yes ☐ No

115.15 (d)

- Does the facility implement a policy and practice that enables inmates to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks? ☒ Yes ☐ No
- Does the facility require staff of the opposite gender to announce their presence when entering an inmate housing unit? ☒ Yes ☐ No

115.15 (e)

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

115.15 (f)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

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

Documentation:

- *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*
- *Executive Directive OPS.110.0047 Search Protocol – Inmates*
- *Maryland Police and Correctional Training Division Lesson Plan – LGBTI*
- *Maryland Police and Correctional Training Division Lesson Plan - Frisk/ Body Searches, Restraints, and Scanning Devices*
- *2018 DPSCS Non-Compliance with In-Service Requirements Report*

Interviews:

- Random Staff Interviews
- Random Inmate Interviews
- Transgender Inmate Interviews

Site Review:

- Housing Units
- Receiving Strip Search Area

Findings:

115.15(a)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*, and *Executive Directive OPS.110.0047 Search Protocol – Inmates* serve as the authoritative documents that guide strip and cavity search protocol. The manual reiterates the standard language verbatim and uses the term “Department” in place of the term “Agency.” *Executive Directive OPS.110.0047 Search Protocol – Inmates*, Section .05F states, “(4) An inmate strip search shall be conducted: (a) By a single correctional officer of the same gender as that of the inmate being searched; (b) In a location and in a manner that ensures maximum privacy for the inmate being strip searched; and (c) In the presence of additional correctional officer.” Furthermore, *Executive Directive OPS.110.0047 Search Protocol – Inmates*, Section .05F(3)(b) states, “When circumstances allow, staff should consult with a transgender or intersex inmate before conducting a search to determine the inmate’s preference in the gender of the officer conducting the search” with regard to conducting strip searches of transgender and intersex inmates. *Executive Directive OPS.110.0047 Search Protocol – Inmates*, Section .05H(2) states, “Only a certified medical professional may perform a body cavity search of an inmate.” Section .05H(4) states, “Only the certified medical professional and the inmate being searched may be present during the procedure.”

The facility did not report any instances whereby a cross gender strip or cross gender visual body cavity search was conducted. Staff interviews did not indicate any cross-gender strip or cross-gender visual body cavity searches of inmates, including any exigent circumstances, conducted by security or medical staff in the past 12 months. Furthermore, 96% of inmates interviewed reported never being naked in full view of non-medical staff of the opposite gender. Informal inmate interviews also reflected that inmates are never strip searched by non-medical staff of the opposite gender. Based on the above, the facility has demonstrated substantial compliance with provision 115.15(a).

115.15(b)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*, and *Executive Directive OPS.110.0047 Search Protocol – Inmates* serve as the authoritative documents that guide search protocol. The manual reiterates the standard language verbatim and uses the term “Department” in place of the term “Agency.” *Executive Directive OPS.110.0047 Search Protocol – Inmates*, Section .05E(3)(a) and(c) states, “(a) Except under provisions of §.05E(3)(c) of this directive, a frisk search of a female inmate shall be conducted by female correctional officer. (c) A managing official or a designee may, based on exigent circumstances, authorize a male officer to conduct a frisk search on a female inmate provided that the officer does not touch the breast or genital area of the inmate.”

Female inmates are housed in the PIW building. The PIW building is a separate free-standing structure within the secure perimeter of the institution. The facility did not report any incidents, including exigent circumstances, whereby a cross-gender pat down search of a female inmate was conducted. It was noted during that audit that all security staff within the PIW building were female.

100% of female inmates interviewed reported that they have never been unable to participate in activities outside of their cell due to the unavailability of female staff. Furthermore, it was reported that only female staff conduct pat down, and strip searches female inmates. Likewise, 100% of staff interviewed reported that male staff do not conduct pat-down searches of female inmates. Additionally, 100% of staff indicated that female inmate programming or out of cell opportunities are not restricted. Staff also cited the prevalence of female staff at the institution and indicated that female staff are always available.

Interview responses are consistent with on-site observations. Based on the above, the facility has demonstrated substantial compliance with provision 115.15(b).

115.15(c)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*, and *Executive Directive OPS.110.0047 Search Protocol – Inmates* serve as the authoritative documents that guide search protocol. The manual reiterates the standard language verbatim and uses the term “Department” in place of the term “Agency.” *Executive Directive OPS.110.0047 Search Protocol – Inmates*, section .05F(6)(b) regarding all strip searches states, “(b) Log or report the search in accordance with established procedures.” Section .05H(1)(b) regarding body cavity searches requires prior written authorization from the managing official or designee before conducting a body cavity search.

The facility reported zero cross-gender strip or cross-gender visual body cavity searches of inmates, including any exigent circumstances, conducted by security or medical staff in the past 12 months. Thus, there are no written reports or incidents of cross-gender strip searches or cross-gender body cavity searches to review.

Staff interviews did not indicate any occurrence of a cross-gender strip or cross-gender visual body cavity search of inmates conducted in the past 12 months. Likewise, inmate interviews did not indicate any occurrence of a cross-gender strip search or visual cavity search conducted by staff. PATX does house female inmates. However, interviews overwhelmingly indicate that cross-gender searches of female inmates are not conducted at the facility.

Based on the above, the facility has demonstrated substantial compliance with provision 115.15(c).

115.15(d)

The Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual reiterates the standard language verbatim and uses the term “Department” in place of the term “Agency.” The manual states, “The facility shall implement policies and procedures that enable inmates to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks. Such policies and procedures shall require staff of the opposite gender to announce their presence when entering an inmate housing unit.”

During the tour it was noted that the facility has implemented policies procedures that allow inmates to shower, change clothes, and use the toilet without being viewed by staff of the opposite gender. The auditor noted that both nursing and security staff are assigned to the acute mental health and segregation units. Security staff in these areas generally consists of only male officers. Camera coverage is present in the sub-acute mental health cells; however, monitors are placed in the nursing station. The nursing station was noted as a closed office with only medical staff present.

B-unit is a dormitory style setting. Unit bathrooms were noted to have partitions to provide adequate privacy. Shower facilities were noted as having a curtain and half-wall in place to mitigate any cross gender viewing issues.

General population housing units (C,D,E & F) are similarly configured. These units were observed to have barriers in place that allow inmates to use shower facilities without being observed by staff of the opposite gender. However, restrooms in the activity rooms were noted to be open to viewing through a mesh screen from the hallway. The mesh screen was noted as not being adequate to enable inmates to perform bodily functions without being observed by staff of the opposite gender.

Male staff were not present in the PIW unit. Furthermore, restrooms and showers are configured in such a manner as cross gender viewing is not an issue. A review of camera placement noted no cross-gender viewing issues.

88% of inmates reported that opposite gender staff announce their presence when entering a housing unit. 100% of staff reported that opposite gender staff announce their presence when entering a housing unit. 96% of inmates interviewed reported never being naked in full view of non-medical staff of the opposite gender. 93% of random staff indicated that inmates are allowed to dress, shower, and use the toilet without being viewed by staff of the opposite gender.

PATX did not provide a policy that requires staff of the opposite gender to announce prior to entering the unit. The facility shall provide policy requiring of opposite gender to announce their presence when entering a unit. Furthermore, general population housing units (C,D,E & F) were observed to allow cross-gender viewing from the hallway through a mesh screen into the activity room restroom. The facility shall implement policies and procedures that enable inmates to perform bodily functions without non-medical staff of the opposite gender viewing their breasts, buttocks, or genitalia. Based on the above, the facility has not demonstrated compliance with provision 115.15(d).

115.15(e)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*, reiterates the standard language verbatim. *Executive Directive OPS.110.0047 Search Protocol – Inmates*, Section .05F(3)(a) regarding strip searches of transgender and intersex inmates states, “A strip

search of a transgender or intersex inmate may not be conducted for the sole purpose of determining the inmate's genital status." Policies indicate that if an inmate's status is unknown it may be determined by conversation with the inmate, a review of available medical records, or as part of a broader medical examination conducted in private by a licensed medical professional. Collectively, these policies guide facility practice regarding Provision 115.15(e).

93% of staff reported that the facility prohibits staff from searching or physically examining a transgender or intersex inmate for the sole purpose of determining genital status. Two transgender inmates were interviewed. Neither inmate reported being searched or physically examined for the sole purpose of determining the inmate's genital status.

Based on the above, the facility does prohibit staff from searching or physically examining a transgender or intersex inmate for the sole purpose of determining genital status. Therefore, the facility has demonstrated substantial compliance with provision 115.15(e).

115.15(f)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*, and *Executive Directive OPS.110.0047 Search Protocol – Inmates* serve as the authoritative documents that guide overall search protocol. The manual reiterates the standard language verbatim and uses the term "Department" in place of the term "Agency." Search protocol is standardized the term "Frisk Search" is defined as "A search not requiring the removal of all clothing. It is conducted by running your hands across clothing to detect hidden objects." Policy notes that frisk searches may be conducted by females on males, but it is not permissible for female staff to search the groin area of male inmates. Department policy also states, "Males shall not conduct searches of females" except during exigent circumstances a managing official or a designee may authorize a male officer to conduct a frisk search on a female inmate provided that the officer does not touch the breast or genital area of the inmate. Strip searches are performed exclusively by two staff of the same gender this also includes a provision for transgender or intersex inmates to be searched by a gender of the inmate's personal preference. Section.05F(3)(b) states, "When circumstances allow, staff should consult with a transgender or intersex inmate before conducting a search to determine the inmate's preference in the gender of the officer conducting the search." Collectively, these policies guide facility practice regarding provision 115.15(f).

The *Maryland Police and Correctional Training Division Lesson Plan – LGBTI* and *Maryland Police and Correctional Training Division Lesson Plan - Frisk/ Body Searches, Restraints, and Scanning Devices* are the primary lesson plans regarding cross gender, transgender, and intersex search procedures. The *Maryland Police and Correctional Training Division Lesson Plan – LGBTI* is a 2-hour lesson plan that covers many topics including definitions associated with LGBTI populations, and risk statistics related to LGTBI populations. Training also covers such topics as professional and respectful interactions with LGTBI inmates such as avoiding assumptions, using affirming and respectful language, and pronoun usage. Training topics include definitions consistent with the standards.

93% of staff reported having received training regarding cross gender, transgender, and intersex search procedures. Additionally, 93% of staff reported that they receive this training annually. Staff also indicate that cross gender searches of female inmates are prohibited and that transgender or intersex inmates can select which gender they prefer to have conduct a search.

Training staff were interviewed and confirmed that training is provided annually. Training staff reported that training for 2019 has not been completed at the time of the audit. This is reasonable given that the

audit was conducted early in the year. The *2018 DPSCS Non-Compliance with In-Service Requirements Report* indicated that five officers had not completed all training requirements in 2018. This document tracks security staff (i.e. those who would conduct searches) training. Two officers were noted as being on military leave, one was noted as no longer employed with the department, any remaining staff were noted as having been hired in 2018 and received training through new officer academy training.

The agency does have a policy in place regarding the conduct of cross-gender, transgender, and intersex inmates. Training is comprehensive in the processes, techniques, and conduct of searches. Search protocol is tailored to the specific gender of the inmate and includes a provision to allow transgender or intersex inmates to be searched by a gender of their preference. Based on the above, the facility has demonstrated substantial compliance with provision 115.15(f).

Recommendations:

- None

Corrective Action:

- 115.15(d) The facility did not provide policy that requires staff of the opposite gender staff to announce prior to entering the unit. The facility shall provide policy requiring of opposite gender to announce their present when entering a unit.
- 115.15(d) General population housing units (C,D,E & F) were observed to allow cross-gender viewing from the hallway through a mesh screen into activity room restroom. The facility shall implement policies and procedures that enable inmates to perform bodily functions without non-medical staff of the opposite gender viewing their breasts, buttocks, or genitalia.

Corrective Action Verification:

- 115.15(d) The facility did provide policy that requires staff of the opposite gender staff to announce prior to entering the unit. PATX.020.0026 B.2.d states, "Staff of the opposite gender is required to announce their presence when entering a housing unit where inmates are likely to be showering, performing bodily functions, or changing clothing." Based on the above, the facility has demonstrated substantial compliance with provision 115.15(d).
- 115.15(d) The facility provided documentation of physical plant modifications to general population housing units (C,D,E & F). The purpose of these modifications is to enable inmates to perform bodily functions without non-medical staff of the opposite gender viewing their breasts, buttocks, or genitalia. Upon review it was noted that the facility installed solid physical barriers that obstruct cross-gender viewing from the hallway through the mesh screen into activity room restroom. Based on the above, the facility has demonstrated substantial compliance with provision 115.15(d).

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

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

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*)

Instructions for Overall Compliance Determination Narrative

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

Documentation:

- *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*
- *Executive Directive OSPS.050.0011 Americans With Disabilities Act of 1990, Titles I and II*
- *Executive Directive OEO.020.0032 Limited English Proficiency (LEP) Policy*
- *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited*
- *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited*
- *Ad Astra Interpreter Services Contract*
- *Translation Services Documentation*
- *Staff Interpreter Services Flier*
- *Orientation Materials*

Interviews:

- *Disabled and Limited English Proficient Inmate Interviews*

- Agency Head/Designee
- Staff Interpreter

Site Review:

- PREA Signage in Spanish
- Prisoner Orientation
- Interpreter Services Flier

Findings:

115.16(a)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* and *Executive Directive OSPS.050.0011 Americans With Disabilities Act of 1990, Titles I and II* are the authoritative documents pertaining to implementation of provision 115.16(a). The manual reiterates the standard language verbatim and uses the term “Department” in place of the term “Agency.” *Executive Directive OSPS.050.0011 Americans With Disabilities Act of 1990, Titles I and II requirements of the Americans with Disabilities Act of 1990 (ADA), Title I (Employment) and Title II (Public Services)*.

Upon arrival inmates are provided orientation materials specific to PATX. Included in the packet is the *Prison Rape Elimination Act and Sexual Assault Awareness* brochure. The brochure is provided in hard copy, covers the department zero-tolerance policy, reporting information and procedures, and is available in both English and Spanish. Inmates also participate in a video and audio presentation that specifically covers PREA topics. Topics include the agency’s zero-tolerance policy; how to report sexual abuse and sexual harassment; agency policy regarding sexual abuse and sexual harassment; and inmate rights regarding sexual abuse, sexual harassment, and retaliation. The video presentation has audio and is available in Spanish. Sign language services are available through Statewide Visual Communication Services. Document translation services are provided by Schrieber, Inc.

The agency head/designee reported that language line and sign language services are available to inmates. Two cognitively disabled inmates were interviewed and reported being given information regarding sexual abuse and sexual harassment in formats that they were able to understand. Furthermore, inmates indicated that medical or mental health staff will assist inmates in understanding the information.

A Maryland Coalition Against Sexual Assault (MCASA) representative was interviewed. The representative reported that legal advocacy, legislative advocacy, general advocacy, and emotional support services are provided through MCASA’s network of providers. Specific services include accompaniment during forensic medical exams, investigatory interviews, and court proceedings. Services also include emotional support and crisis intervention services. Services are generally available via telephone, mail, or in-person. The MCASA representative also reported that interpreters are available to the inmate population.

PATX has procedures and practices in place to assist disabled inmates with understanding the facility’s sexual abuse and sexual harassment program. Based on the above, the facility has demonstrated substantial compliance with provision 115.6(a).

115.16(b)

The Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual and Executive Directive OEO.020.0032 Limited English Proficiency (LEP) Policy serve as the authoritative documents pertaining to LEP access to the agency’s PREA program. The manual reiterates the standard language verbatim and uses the term “Department” in place of the term “Agency.” Executive Directive OEO.020.0032 Limited English Proficiency (LEP) Policy establishes policy and procedures to ensure effective communication with individuals with Limited English Proficiency (LEP), including individuals under the authority of the Department of Public Safety and Correctional Services (Department), in order to provide meaningful access to Department programs and services.

Upon arrival, inmates are provided orientation materials specific to PATX. Included in the packet is the *Prison Rape Elimination Act and Sexual Assault Awareness* brochure. This brochure covers the zero-tolerance policy and reporting information and is available in both English and Spanish and provided in hard copy. Additionally, inmates also participate in a video and audio presentation that specifically covers PREA topics to include the agency’s zero-tolerance policy; how to report sexual abuse and sexual harassment; agency policy regarding sexual abuse and sexual harassment; and inmate rights regarding sexual abuse, sexual harassment, and retaliation. The video presentation has audio and is also available in Spanish. Sign language services are available through Statewide Visual Communication Services. Document translation services are provided by Schrieber, Inc. Hotline reporting posters written in Spanish were noted throughout the institution. Advocacy and external support services information was also posted in Spanish.

The agency head/designee reported that language line and sign language services are available to inmates. One limited English proficient inmate was interviewed. This inmate reported being given information regarding sexual abuse and sexual harassment in formats that they were able to understand. During the on-site audit it was learned that the facility did have at least one staff member who could provide interpreter services. Audit staff contacted this staff member via telephone and confirmed that interpreter services are available.

An interview with the Maryland Coalition Against Sexual Assault (MCASA) representative was conducted. The representative reported that legal advocacy, legislative advocacy, general advocacy, and emotional support services are provided through MCASA’s network of providers. Specific services include accompaniment during forensic medical exams, investigatory interviews, and court proceedings. Services also include emotional support and crisis intervention. Services are generally available via telephone, mail, or in-person. The MCASA representative also reported that interpreters are available to the inmate population.

PATX has procedures and practices in place to assist Limited English Proficient inmates with understanding the PATX’s sexual abuse and sexual harassment program. Interpretation services are available should inmates need assistance accessing the program. Based on the above, the facility has demonstrated substantial compliance with provision 115.16(b).

115.16(c)

The Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual and Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited are the authoritative guidance regarding provision 115.16(c). The manual reiterates the standard language verbatim and uses the term “Department” in place of the term “Agency.” Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited section .05C(6) states, “Inmate interpreters, inmate readers, or other types of inmate

assistance are not used to communicate information required under this directive to other inmates, except under limited circumstances where a delay in obtaining an effective non-inmate interpreter would compromise the inmate's safety, the performance of first responder duties, or the investigation of an inmate's allegation. Likewise, Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited, section .05C(6) states, "Except under limited circumstances where a delay in obtaining an effective interpreter could compromise the inmate's safety, the performance of first responder duties, or the investigation of an inmate's allegation, inmate interpreters, inmate readers, or other types of inmate assistance are not used to communicate information required under this directive to other inmates." These policies guide practice regarding the use of inmate interpreters.

87% of staff reported no limitations to inmate interpreter use. This result does not coincide with agency policy regarding the use of inmate interpreters to limited circumstances where a delay in obtaining an effective non-inmate interpreter would compromise the inmate's safety, the performance of first responder duties, or the investigation of an inmate's allegation. The facility shall train staff on the limitations to inmate interpreter use.

Based on the above, PATX has procedures and practices in place to limit the use of inmate interpreters. However, staff interview results did not indicate a working knowledge of the policy regarding inmate interpreter use. Therefore, the facility has not demonstrated compliance with provision 115.16(c).

Recommendations:

- None.

Corrective Action:

- 115.16: During interviews staff were unable to clearly articulate the limitations to inmate interpreter use. The facility shall train staff on limitations to inmate interpreter use.

Corrective Action Verification:

- 115.16: The facility provided documentation demonstrating that all staff had received information regarding limitations to inmate interpreter use. The facility issued direction stating, "the Department shall not rely on inmate interpreters, inmate readers, or other types of inmate assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the inmate's safety, the performance of first response duties, or the investigation of the inmate's allegations." This instruction also noted several resources available to staff to obtain additional information pertaining to the use of inmate interpreters. All facility staff were required to sign acknowledging they had reviewed the written directive read and understand the agency's use of the interpreter's policy. Signature sheets signed by staff accompanied this documentation. Based on the above, the facility has demonstrated substantial compliance with provision 115.16(c).

Standard 115.17: Hiring and promotion decisions

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

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*)

Instructions for Overall Compliance Determination Narrative

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

Documentation:

- *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*
- *Secretary's Directive DPSCS.020.0026 Prison Rape Elimination Act Federal Standards Compliance*
- *Code of Maryland (COMAR) 12.15.01.19 Issuance of a Revised Printed Statement (State Rape Back Program)*
- *Department of Public Safety and Correctional Services Standards of Conduct & Internal Administrative Disciplinary Process*
- *Hiring Guidelines for the Position of Correctional Officer*
- *PREA DBM DPSCS JOBAPS Application Form*
- *PREA Interview Questions for Non-Mandated Positions, Mandated Positions, Promotional and Transfer Candidates*
- *Polygraph Questions for Mandated Positions*
- *Maryland Department of Public Safety and Correctional Services Personal Interview form – Correctional Applicant*
- *Hiring and Promotional Records*
- *Criminal History Background Records Check Documentation*

Interviews:

- Administrative (Human Resources) Staff

Site Review:

- None

Findings:

115.17(a)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* reiterates the language of provision 115.17(a) verbatim and uses the term "Department" in place of the term "Agency." *Secretary's Directive DPSCS.020.0026 Prison Rape Elimination Act Federal Standards Compliance*, section .05F(1) regarding the Human Resources Services Division (HRSD) states, "shall adopt hiring policy consistent with federal PREA standards prohibiting the hiring or promotion of anyone who may have contact with inmates, and prohibiting the enlisting of the services of any contractor, who may have contact with inmates, who: (a) Engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997); (b) Was convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or (c) Was civilly or administratively adjudicated to have engaged in the activity described in §.04B(3) of this directive." These requirements were noted throughout the *Hiring Guidelines for the Position of Correctional Officer*, *PREA DBM DPSCS JOBAPS Application form*; *PREA Interview Questions for Non-Mandated Positions form*, *Mandated Positions, Promotional and Transfer Candidates form*; *Maryland Department of Public Safety and Correctional Services Personal Interview form – Correctional Applicant*, and *Polygraph Questions for Mandated Positions* documentation provided by the facility. This policy serves as the authoritative document guiding hiring practices throughout the department.

Human resources staff reported that hiring and background checks of new employees, promotions, contractors, and volunteers are performed by the centralized hiring unit. Human resources staff verified that the agency does prohibit the hiring or promotion of anyone who do not meet the requirements of 115.17(a). Likewise, hiring practices also prohibit the acquisition of services from any contractor who does not meet the requirements of 115.17(a).

A total of eight agency hiring and promotional records were randomly selected for review. A review of institutional records noted that all applicants were asked about behavior described in 115.17(a)(1-3). Documentation also indicates that all applicants were asked again during a polygraph examination. Upon review all records were compliant with provision 115.17(a).

Based on the above, procedures and practices are in place to prohibit the hiring, promotion and acquisition of services from anyone who does not meet the requirements of 115.17(a)(1-3). Therefore, the facility has demonstrated substantial compliance with provision 115.17(a).

115.17(b)

The Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual reiterates the language of provision 115.17(b) verbatim and uses the term “Department” in place of the term “Agency.” Secretary’s Directive DPSCS.020.0026 Prison Rape Elimination Act Federal Standards Compliance, section .05F(2)(a)-(b) states, “The HRSD shall consider incidents of sexual harassment when determining to hire or promote an employee or contract with a service provider if the individual may have contact with an inmate.” Additionally, consideration for incidents of sexual harassment were noted throughout the Hiring Guidelines for the Position of Correctional Officer; PREA DBM DPSCS JOBAPS Application form; PREA Interview Questions for Non-Mandated Positions form, Mandated Positions, Promotional and Transfer Candidates form; Maryland Department of Public Safety and Correctional Services Personal Interview form – Correctional Applicant, and Polygraph Questions for Mandated Positions documentation provided by the facility.

Human resources staff reported that incidents of sexual harassment are considered during the application, interview, background investigation, and orientation processes. Human resources staff confirmed that this is also true for contractors.

A total of eight agency hiring and promotional records were randomly selected for review. A review of institutional records noted that applicants were asked about behavior described in 115.17(b) regarding incidents of sexual harassment. Additionally, the documentation indicates that all applicants were asked again during a polygraph examination. Upon review all records were compliant with provision 115.17(b).

Based on the above, the agency does consider sexual harassment as part of the application, interview, background investigation, and orientation processes. Therefore, the facility has demonstrated compliance with provision 115.17(b).

115.17(c)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* reiterates the language of provision 115.17(c) verbatim and uses the term “Department” in place of the term “Agency.” Secretary’s Directive DPSCS.020.0026 Prison Rape Elimination Act Federal Standards Compliance, section .05F(3) states, “Before hiring a new employee to perform duties involving contact with an inmate, the Human Resources Services Division shall: (a) Conduct a criminal background records

check; and (b) Consistent with federal, state, and local law, make a best effort to contact all prior institutional employers for information on substantiated allegations of sexual abuse or a resignation during a pending investigation of an allegation of sexual abuse.” This policy serves as the authoritative document guiding pre-hire background checks and prior institutional employer contact practices.

Human resources staff reported that criminal background checks and efforts to contact all prior institutional employers of new employees are performed by the centralized hiring unit. It was reported that investigators are assigned and contact all previous employers. A total of eight agency hiring and promotional records were obtained from human resources staff and reviewed by the auditor. Records indicate that a criminal background check and efforts to contact all prior employers was performed in all instances. Furthermore, it was noted that prior employer contact was not limited to institutional employers. Upon review all records were compliant with provision 115.17(c).

Based on the above, the agency does perform criminal background checks and does endeavor to contact all prior institutional employers of new employees. Therefore, the facility has demonstrated compliance with provision 115.17(c).

115.17(d)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* reiterates the language of provision 115.17(d) verbatim and uses the term “Department” in place of the term “Agency.” *Secretary’s Directive DPSCS.020.0026 Prison Rape Elimination Act Federal Standards Compliance*, section .05F(3)(c) states, “Before hiring a new employee to perform duties involving contact with an inmate, the Human Resources Services Division shall: (c) Before enlisting a contractor to perform services that involve contact with an inmate, the HRSD shall conduct a criminal background records check of the contractor’s employees who may have contact with an inmate.” This policy serves as the authoritative document guiding pre-hire background checks and prior institutional employer contact practices.

Human resources staff reported that criminal background checks and efforts to contact all prior institutional employers of contractors are performed by the centralized hiring unit. A total of eight agency hiring and promotional records were reviewed. Upon review, it was noted that a criminal background check and efforts to contact all prior employers was performed in accordance with provision 115.17(d). Furthermore, it was noted that prior employer contact was not limited to institutional employers.

Based on the above, the agency does perform criminal background checks of contractors as required by policy. Therefore, the facility has demonstrated compliance with provision 115.17(d).

115.17(e)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* reiterates the language of provision 115.17(e) verbatim and uses the term “Department” in place of the term “Agency.” *Secretary’s Directive DPSCS.020.0026 Prison Rape Elimination Act Federal Standards Compliance*, section .05I states, “For each subordinate employee and contractor service provider who may have contact with an inmate, an appointing authority, or a designee, shall conduct a criminal records background check, at minimum, every five years, or have in place a system for otherwise capturing such information for current employees and contractors.” This policy guides agency practice regarding criminal record background checks of current employees.

Human resources staff reported that criminal background checks are performed at least every five years.

Additionally, pursuant to COMAR12.15.01.19 regarding the *State Rap Back* program, arrest reports are monitored for employee contact with law enforcement on a continuous basis. If an employee has any contact with a law enforcement agency, the contact is immediately reported to the agency. Agency background check records were examined. A review of the documentation indicates that criminal records background checks are being completed as required.

Based on the above, the agency requires criminal background records checks of current employees and contractors at least every five years. Therefore, the facility has demonstrated compliance with provision 115.17(e).

115.17(f)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* reiterates the language of provision 115.17(f) verbatim and uses the term “Department” in place of the term “Agency.” *Secretary’s Directive DPSCS.020.0026 Prison Rape Elimination Act Federal Standards Compliance*, section .05F(4)(a)-(b) states, “The HRSD shall inquire of each applicant and current employees who may have contact with an inmate directly about previous misconduct described in §.04B(3) of this directive in: (a) A written application or interview for employment or promotions; and (b) An interview or written self-evaluation conducted as a part of a review of a current employee.” This policy guides agency practice regarding criminal record background checks of current employees. These questions are part of the *PREA DBM DPSCS JOBAPS Application* form, *PREA Interview Questions for Non-Mandated Positions*, *Mandated Positions*, *Promotional and Transfer Candidates* form, *Polygraph Questions for Mandated Positions*, and *Maryland Department of Public Safety and Correctional Services Personal Interview form – Correctional Applicant*.

The agency’s “continuing affirmative duty to disclose any such misconduct” is noted in the *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*. The manual reiterates the language of provision 115.17(f) verbatim and uses the term “Department” in place of the term “Agency.” Additionally, the *Department of Public Safety and Correctional Services Standards of Conduct & Internal Administrative Disciplinary Process* Section B(10) states, “An employee may not violate any state, federal or local law. An employee arrested or criminally charged shall notify or cause to be notified, in writing, his/her appointing authority via the immediate supervisor on his/her next scheduled workday, but in no case later than five calendar days following the employee’s arrest or criminal summons. Upon adjudication of the criminal case, the employee shall notify or cause to be notified, in writing, his/her appointing authority via the immediate supervisor of the Court’s disposition. This shall be done on the employee’s next scheduled workday, but in no case later than five (5) calendar days following such action.” The *Maryland Department of Public Safety and Correctional Services Personal Interview – Correctional Applicant* form also indicates a requirement for applicants to disclose the types of behavior indicated in this provision. Human resources staff confirmed that hiring and promotion applications include the questions required by provision 115.17(a). Human resources staff indicate that policy requires staff to report such conduct within 24 hours. A review of application documentation confirmed the statements made by human resources staff.

The agency does ask all applicants and employees who may have contact with inmates directly about previous misconduct described in provision 115.17(a) of this section in written applications or interviews for hiring or promotions and in any interviews or written self-evaluations conducted as part of reviews of current employees. Furthermore, the agency does impose a continuing affirmative duty to disclose any misconduct described in Standard 115.17. Based on the above, the facility has demonstrated substantial compliance with provision 115.17(f).

115.17(g)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* reiterates the language of provision 115.17(g) verbatim and uses the term “Department” in place of the term “Agency.” *Secretary’s Directive DPSCS.020.0026 Prison Rape Elimination Act Federal Standards Compliance*, section .05F states, “A material omission regarding conduct described in this directive or providing materially false information shall be grounds for termination of employment.” Additionally, the *PREA DBM DPSCS JOBAPS Application Form* also contains the following language “I hereby affirm that this application contains no willful misrepresentation or falsifications and that this information given by me is true and complete to the best of my knowledge and belief. I am aware that should investigation at any time disclose any misrepresentation or falsification, I shall be subject to immediate termination and/or my application will be disapproved, my name removed from the eligible list, and that I will not be certified for employment in any position under the jurisdiction of the Department of Budget & Management. I am aware that a false statement is punishable under law by fine or imprisonment or both” advising applicants of this requirement.

Based on the above, the agency does consider material omissions regarding misconduct, and/or materially false information regarding conduct described in 115.17 as grounds for termination. Therefore, the facility has demonstrated compliance with provision 115.17(g).

115.17(h)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* reiterates the language of provision 115.17(h) verbatim and uses the term “Department” in place of the term “Agency.” *Maryland’s Public Information Act (“PIA”), GP§ 4-311*, states, “personnel records of an individual are protected; however, such records are available to the person who is the subject of the record and to the officials who supervise that person. An agency may not generally share personnel records with other agencies; however, it is implicit in the personnel records exemption that another agency charged with responsibilities related to personnel administration may have access to those records to the extent necessary to carry out its duties.”

The documentation provided by the facility indicates that current practice does allow for the disclosure of 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. In fact, the documentation notes that the request is being submitted specifically for the purpose of compliance with Standard 115.17. Furthermore, it was noted that these inquiries are processed by the agency’s human resources department rather than at the facility level.

Based on the above, the documentation clearly demonstrates that the agency and facility does disclose information pursuant to provision 115.17(h).

Recommendations:

- None.

Corrective Action:

- None

Standard 115.18: Upgrades to facilities and technologies

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

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*)

Instructions for Overall Compliance Determination Narrative

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

Documentation:

- *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*

Interviews:

- Agency Head or Designee
- Administrative (Human Resources) Staff
- Warden

Site Review:

- Physical Plant
- Video Monitoring Equipment

Findings:

115.18(a)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* reiterates the language of provision 115.18(a) verbatim and uses the term “Department” in place of the term “Agency.” The manual states, “When designing or acquiring any new facility and in planning any substantial expansion or modification of existing facilities, the Department shall consider the effect of the design, acquisition, expansion, or modification upon the Department’s ability to protect inmates from sexual abuse.

The agency head designee reported that when designing, acquiring, or planning substantial modifications to facilities the department does consider PREA requirements. This would include blind spots in building plans relevant to camera placement. The agency also considers statistics (e.g. a prevalence of incidents), needs, past problem areas and evidence-based practices. The warden reported that PATX has not underwent any significant expansions or modifications since the last PREA audit in 2016. The interview did not indicate any expansions or modifications to the existing physical plant planned for the near future.

PATX staff did not indicate any substantial expansions or modifications to the physical plant since the last PREA audit in 2016. At the time of the audit, no expansions or modifications to the existing physical plant are currently planned. Hence the on-site audit did not reveal any substantial expansions or modifications to the facility’s physical plant. Based on the above, the facility has demonstrated compliance with provision 115.18(a).

115.18(b)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* reiterates the language of provision 115.18(b) verbatim and uses the term “Department” in place of the term “Agency.” The manual states, “When installing or updating a video monitoring system, 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 head designee reported that when designing, acquiring, or planning substantial modifications to facilities the agency does consider PREA requirements. The agency also considers statistics (e.g. a prevalence if incidents), considers needs, past problem areas and evidence-based practices.

Audit documentation noted that PIW received new video monitoring equipment in 2018. This equipment was installed in the kitchen, housing unit day rooms, and isolated areas. However, the facility did not provide documentation that demonstrates consideration for how the video monitoring technology would enhance the agency’s ability to protect inmates from sexual abuse. Based on the above, the facility has not demonstrated compliance with provision 115.18(b).

Recommendations:

- None.

Corrective Action:

- 115.18(b): Audit documentation noted that PIW received new video monitoring equipment in 2018. This equipment was installed in the kitchen, housing unit day rooms, and isolated areas. However, the facility did not provide documentation that demonstrates consideration for how the video monitoring technology would enhance the agency's ability to protect inmates from sexual abuse.

Corrective Action Verification:

- 115.18(b): The facility did provide documentation that demonstrates consideration for how the video monitoring technology would enhance the agency's ability to protect inmates from sexual abuse. This information was provided on the *Review of Areas in the Facility* letter dated March 5, 2017. Based on the above, the facility has demonstrated compliance with provision 115.18(b).

RESPONSIVE PLANNING

Standard 115.21: Evidence protocol and forensic medical examinations

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report**115.21 (a)**

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

115.21 (b)

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

115.21 (c)

- Does the agency offer all victims of sexual abuse access to forensic medical examinations, whether on-site or at an outside facility, without financial cost, where 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*)

Instructions for Overall Compliance Determination Narrative

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

Documentation:

- Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual
- Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited
- Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited
- Executive Directive IIU.110.0011 Investigating Sex Related Offenses
- Internal Investigative Unit Procedures IIU.220.0002 Evidence and Personal Property Collection, Storage, and Disposition
- Code of Maryland (COMAR) 10.12.02.03 Rape and Sexual Offense – Physician and Hospital Charges
- Code of Maryland (COMAR) 10.12.02.04 Rape and Sexual Offense – Alleged Child Sexual Abuse Victim Care
- PREA Standard 115.21 – Evidence Protocol Memo
- Internet Search Mercy Medical Center Baltimore, Maryland
- Investigation Files

Interviews:

- Random Sample of Staff
- A Maryland Coalition Against Sexual Assault (MCASA) representative
- Medical Staff
- Mercy Hospital Forensic Department Staff
- Random Sample Inmates
- Inmates who reported sexual abuse

Site Review:

- Advocacy Contact Information Signage

Findings:

115.21(a)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* reiterates the language of provision 115.21(a) verbatim and uses the term “Department” in place of the term “Agency.” The manual states, “The Department is responsible for investigating allegations of sexual abuse; the Department shall follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions.” The Maryland Department of Public Safety and Correctional Services evidence collection protocol is contained within *Executive Directive IIU.110.0011 Investigating Sex Related Offenses* and *Internal Investigative Unit Procedures IIU.220.0002 Evidence and Personal Property Collection, Storage, and Disposition* policies. Combined *Executive Directive IIU.110.0011 Investigating Sex Related Offenses* and *Internal Investigative Unit Procedures IIU.220.0002 Evidence and Personal Property Collection, Storage, and Disposition* establish policy and procedures for Department of Public Safety and Correctional Services investigators conducting an investigation of an allegation of misconduct that involves a sex related offense.

The investigative entity recently underwent a name change; therefore, the terms Internal Investigative Unit (IIU) and Intelligence and Investigative Division (IID) are used interchangeably. During the audit it was noted that both policy and staff refer to the same entity using both names. Though the names are different the policy language and staff refer to the same entity. IIU initially handles all allegations of sexual abuse and sexual harassment. IIU has jurisdiction over both administrative and criminal investigations. Evidence collection protocol outlined in *Executive Directive IIU.110.0011 Investigating Sex Related Offenses* requires staff to protect the scene to preserve evidence any items that may be used as evidence, and the victim is advised against actions that would destroy evidence that may be present on the victim’s body or clothing. *Internal Investigative Unit Procedures IIU.220.0002 Evidence and Personal Property Collection, Storage, and Disposition* establishes procedures for collection, storage, and disposition of evidence and other property seized or otherwise under the control of the Maryland Department of Public Safety and Correctional Services internal investigative unit. Policy covers handling evidence in a manner that preserves evidentiary value, prevents damage, and prevents deterioration. Hazardous materials are handled in accordance with Maryland Occupational Safety and Health Administration; Occupational Safety and Health Administration; National Center for Disease Control and Prevention; and The State Fire Marshall. Evidence is documented and catalogued to preserve chain of custody and ensure the item is turned over the custodial investigator.

Internal Investigative Unit Procedures IIU.220.0002 Evidence and Personal Property Collection, Storage, and Disposition states, “When the possibility for recovery of physical evidence from the victim exists or otherwise is medically appropriate the victim will undergo a forensic medical examination that is performed by a Sexual Assault Forensics Examiner (SAFE), Sexual Assault Nurse Examiner (SANE), or If documented attempts to obtain the services of a SAFE or SANE are unsuccessful, a licensed health care professional who has been trained to perform medical forensic examinations of sexual abuse victims.” Additionally, *COMAR 10.12.02.03 Rape and Sexual Offense – Physician and Hospital Charges* section B(3) states, “When performing a sexual assault forensic examination, a physician or a forensic nurse examiner shall use the Maryland State Police victim sexual assault evidence collection kit or a comparable evidence collection kit and shall follow the kit instructions including: (a) Packaging the victim's

clothing in paper bags; and (b) Collecting the following specimens: (i) Blood sample (lavender cap); (ii) Vaginal swabs (a minimum of four); (iii) Oral swabs (a minimum of two); (iv) Pubic hair combings; (v) Pulled pubic hair; (vi) Pulled head hair; and (vii) If indicated, anal swabs, bite mark swabs, and fingernail scrapings.” Collectively, these policies guide facility practice regarding evidence protocol and forensic examinations.

The bulk of the investigative and evidence collection duties are performed by IIU investigators and forensic medical examiners. However, 100% of staff reported being knowledgeable in the agency’s protocol for obtaining physical evidence. Random staff were able to articulate that the scene would be secured to preserve physical evidence and the victim would be escorted to health care for further evidence collection procedures including a forensic examination at a local medical facility. Random staff demonstrated knowledge in evidence collection protocols including the collection of clothing and procedures performed by the local medical facility. Interviews indicate that staff know their responsibilities regarding scene preservation and ensuring that victims are referred to medical services for further evidence collection.

The agency does have a uniform protocol for the collection and preservation of evidence. Additionally, staff were able to articulate their role and responsibilities regarding evidence collection and preservation despite many of the duties may be performed by IIU investigators or medical examiners. Based on the above, the facility has demonstrated substantial compliance with provision 115.21(a).

115.21(b)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* reiterates the language of provision 115.21(b) verbatim. The manual states, “The protocol shall be developmentally appropriate for youth where applicable, and, as appropriate, shall be adapted from or otherwise based on the most recent edition of the U.S. Department of Justice’s Office on Violence Against Women publication, “*A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents*, or similarly comprehensive and authoritative protocols developed after 2011.”

Internal Investigative Unit (IIU) initially handles all allegations of sexual abuse and sexual harassment. IIU has jurisdiction over both administrative and criminal investigations. In Evidence collection protocol outlined in *Executive Directive IIU.110.0011 Investigating Sex Related Offenses* requires staff to protect the scene to preserve evidence and items that may be used as evidence, and the victim is advised against actions that would destroy evidence that may be present on the victim’s body or clothing. *Internal Investigative Unit Procedures IIU.220.0002 Evidence and Personal Property Collection, Storage, and Disposition* establishes procedures for collection, storage, and disposition of evidence and other property seized or otherwise under the control of the Maryland Department of Public Safety and Correctional Services internal investigative unit. Policy covers handling evidence in a manner that preserves evidentiary value, prevents damage, and prevents deterioration. Hazardous materials are handled in accordance with Maryland Occupational Safety and Health Administration; Occupational Safety and Health Administration; National Center for Disease Control and Prevention; and The State Fire Marshall. Evidence is documented and catalogued to preserve chain of custody and ensure the item is turned over the custodial investigator.

Internal Investigative Unit Procedures IIU.220.0002 Evidence and Personal Property Collection, Storage, and Disposition states, “When the possibility for recovery of physical evidence from the victim exists or otherwise is medically appropriate the victim will undergo a forensic medical examination that is performed by a Sexual Assault Forensics Examiner (SAFE), Sexual Assault Nurse Examiner (SANE), or If documented attempts to obtain the services of a SAFE or SANE are unsuccessful, a licensed health

care professional who has been trained to perform medical forensic examinations of sexual abuse victims.” *COMAR 10.12.02.04 Rape and Sexual Offense – Alleged Child Sexual Abuse Victim Care* addresses protocol necessary to conduct a thorough pediatric examination. COMAR defines a child as any individual younger than 18 years old. Evidence collection protocol for youth is similar to the adult protocol; however, there is an emphasis on minimizing additional physical or emotional trauma to the child during the conduct of an evidence collection exam. Collectively, these policies guide facility practice regarding evidence protocol and forensic examinations.

Though the agency does not conduct forensic examinations, the agency does have a uniform protocol for the collection and preservation of evidence that appears to be developmentally appropriate for youth. Based on the above, the facility has demonstrated substantial compliance with provision 115.21(b).

115.21(c)

Neither the agency nor facility conduct forensic examinations. The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* reiterates the language of provision 115.21(c) verbatim and uses the term “Department” in place of the term “Agency.” *Internal Investigative Unit Procedures IIU.220.0002 Evidence and Personal Property Collection, Storage, and Disposition* states, “When the possibility for recovery of physical evidence from the victim exists or otherwise is medically appropriate the victim will undergo a forensic medical examination that is performed by a Sexual Assault Forensics Examiner (SAFE), Sexual Assault Nurse Examiner (SANE), or If documented attempts to obtain the services of a SAFE or SANE are unsuccessful, a licensed health care professional who has been trained to perform medical forensic examinations of sexual abuse victims.” *Executive Directive IIU.110.0011 Investigating Sex Related Offenses; Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited; and Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* require, if medically appropriate or necessary to preserve evidence, the facility to offer the victim access to a medical forensics examination at no cost to the victim that is performed by Sexual Assault Forensics Examiner (SAFE), Sexual Assault Nurse Examiner (SANE), or a medical professional who has been specifically trained to conduct medical forensics examinations. Collectively, these policies guide facility practice with regard to evidence protocol and forensic examinations.

An interview with facility medical staff verified that facility medical staff do not conduct forensic examinations. Inmate victims of sexual abuse would initially come to health care and are subsequently referred to a local hospital for a forensic examination. If a forensic exam were medically appropriate or necessary to preserve evidence, the victim would be subsequently transported to Mercy Medical Center in Baltimore, Maryland. An internet search revealed that Mercy Medical Center has a dedicated treatment center for sexual assault and domestic violence victims. Mercy Medical Center has 30 specially trained Forensic Nurse Examiners who are available 24 hours a day. Mercy Medical Center forensic department personnel confirmed that Mercy Medical Center is contracted to service the Jessup and Baltimore area. Furthermore, Mercy Medical Center always has an advocate but does work with Turnaround Center.

Investigation documentation verifies that Mercy Medical Center is utilized for the purposes of forensic examinations. A review of investigation documents noted one instance where the alleged inmate victim was transported from PATX to Mercy Medical for a forensic examination. The inmate ultimately refused the examination. Nonetheless, the alleged victim was transported for services pursuant to provision 115.21(c).

Facility staff do not conduct forensic exams. Rather inmate victims of sexual abuse are sent to the local hospital for forensic exam services. Therefore, the facility does have access to these services through

Mercy Medical Center. Based on the above, the facility has external services available and a process that allows inmate victims of sexual abuse to access these services. Therefore, the facility has demonstrated substantial compliance with provision 115.21(c).

115.21(d)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* reiterates the language of provision 115.21(d) verbatim and uses the term “Department” in place of the term “Agency.” *Executive Directive IIU.110.0011 Investigating Sex Related Offenses* section .05D(3) states, “If the victim requests, coordinate with the managing official, or a designee, to arrange for a victim advocate to accompany the victim to provide support for the victim through the medical forensics examination and investigatory interviews” Both *OPS.050.0001 Sexual Misconduct – Prohibited* and *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* states “that as requested by the victim and the services are reasonably available, have one of the following accompany, for the purpose of support, the victim through the forensic examination and investigation interviews a qualified victim advocate; a department employee who is otherwise not involved in the incident and has received education and training concerning sexual assault and forensic examination issues and has been appropriately screened and determined to be competent to serve in this role; or a non-department community-based organization representative who meets the criteria for a department employee established under §.05G(3)(b)(ii) of this directive.” Collectively, these policies guide facility practice with regard to evidence protocol and forensic examinations.

DPSCS has an agreement in place with the Maryland Coalition Against Sexual Assault (MCASA) to provide advocacy services statewide. MCASA is the federally recognized state sexual assault coalition in the State of Maryland. MCASA’s core members are the state’s 17 rape crisis and recovery centers. MCASA provides legal advocacy, legislative advocacy, general advocacy, and emotional support services through the organizations network of providers. MCASA’s Sexual Assault Legal Institute (SALI) provides legal services for victims and survivors of sexual violence. An MCASA representative was interviewed as part of the audit. The representative verified that MCASA does have a relationship with the agency. Specific services include accompaniment during forensic medical exams, investigatory interviews, and court proceedings. Services are generally available via telephone, mail, or in-person.

The facility compliance manager reported that services are available through MCASA. MCASA information is provided to the inmate population via signage posted throughout the facility and in the inmate orientation materials. The facility compliance manager reported that inmates may contact MCASA at no cost. This would coincide with the advocacy and emotional support information posted throughout the institution and provided in hard copy during inmate orientation.

Two inmates who reported sexual abuse were interviewed. Neither inmate was able to provide information regarding the availability of victim advocacy services. However, one of inmate’s interviewed stated that this auditor was the first person to receive the allegation. Based on the above, the facility has demonstrated substantial compliance with provision 115.21(d).

115.21(e)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* reiterates the language of provision 115.21(e) verbatim and uses the term “Department” in place of the term “Agency.” *Executive Directive IIU.110.0011 Investigating Sex Related Offenses* section .05D(3) states, “If the victim requests, coordinate with the managing official, or a designee, to arrange for a victim advocate to accompany the victim to provide support for the victim through the medical forensics

examination and investigatory interviews” Both *OPS.050.0001 Sexual Misconduct – Prohibited* and *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* states, “as requested by the victim and the services are reasonably available, have one of the following accompany, for the purpose of support, the victim through the forensic examination and investigation interviews a qualified victim advocate; a department employee who is otherwise not involved in the incident and has received education and training concerning sexual assault and forensic examination issues and has been appropriately screened and determined to be competent to serve in this role; or a non-department community-based organization representative who meets the criteria for a department employee established under §.05G(3)(b)(ii) of this directive.” Collectively, these policies guide facility practice with regard to evidence protocol and forensic examinations.

DPSCS has an agreement in place with the Maryland Coalition Against Sexual Assault (MCASA) to provide advocacy services statewide. MCASA is the federally recognized state sexual assault coalition State of Maryland. MCASA’s core members are the state’s 17 rape crisis and recovery centers. MCASA provides legal advocacy, legislative advocacy, general advocacy, and emotional support services through the organizations network of providers. MCASA’s Sexual Assault Legal Institute (SALI) provides legal services for victims and survivors of sexual violence. An MCASA representative was interviewed as part of the audit. The representative verified that MCASA does have a relationship with the agency. Specific services include accompaniment during forensic medical exams, investigatory interviews, and court proceedings. Services are generally available via telephone, mail, or in-person.

Two inmates who reported sexual abuse were interviewed. Only one of the inmates was able to articulate that services were available. Investigation documents neither prove nor disproves the availability of these services. All but one of the investigations conducted in the past 12 months was determined to be unfounded. One investigation noted that the alleged inmate victim was transported from PATX to Mercy Medical for a forensic examination. The alleged inmate victim ultimately refused the forensic examination and the investigation was determined to be unfounded. Therefore, services and referrals were not completed.

Based on the above, the agency does have services available. Therefore, the facility has demonstrated substantial compliance with provision 115.21(e).

115.21(f)

This Maryland Department of Public Safety and Correctional Services (DPSCS) as the DPSCS has an investigative division staffed with sworn police officers who conduct all of the agency’s administrative and criminal investigations. Therefore, this subsection is not applicable insofar as the agency itself is responsible for investigating allegations of sexual abuse.

Based on the above, the facility has demonstrated substantial compliance with provision 115.21(f).

115.21(g)

The auditor is not required to audit this provision.

115.21(h)

This subsection is not applicable to Maryland Department of Public Safety and Correctional Services (DPSCS) insofar as advocacy services are provided through the Maryland Coalition Against Sexual Assault (MCASA).

Recommendations:

- None.

Corrective Action:

- None

Standard 115.22: Policies to ensure referrals of allegations for investigations**All Yes/No Questions Must Be Answered by the Auditor to Complete the Report****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*)

Instructions for Overall Compliance Determination Narrative

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

Documentation:

- *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*
- *Executive Directive IIU.110.0011 Investigating Sex Related Offenses*
- *Executive OPS.050.0001 Sexual Misconduct – Prohibited*
- *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited*
- Investigation Records

Interviews:

- Interview of Agency Head
- Investigative Staff

Site Review:

- None

Findings:

115.22(a)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* reiterates the language of provision 115.22(a) verbatim and uses the term "Department" in place of the term "Agency." *Executive Directive IIU.110.0011 Investigating Sex Related Offenses* section .03 states, "The Department shall promptly, thoroughly, and objectively investigate each allegation of employee or inmate misconduct involving a sex related offense according to a uniform protocol based on recognized investigative practices that maximize evidence collection to support effective administrative dispositions and, if appropriate, criminal prosecution of the identified perpetrator." Both *OPS.050.0001 Sexual Misconduct – Prohibited* and *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* states, "An IID investigator, or an investigator designated by the IID, shall conduct a prompt, thorough and objective investigation of every complaint of alleged sexual misconduct." Collectively, these documents guide facility practice regarding policies to ensure the referral of allegations for investigations.

The agency head designee reported that every allegation of sexual abuse or sexual harassment goes through IIU. Likewise, all investigations criminal or administrative are tracked through IIU. Investigation records were provided. During the audit period, IIU received 13 allegations of sexual abuse and sexual harassment. Investigations were noted as having been received through various means including the alleged victim, third parties, security staff, and the agency PREA hotline. Based on the above, the facility has demonstrated substantial compliance with provision 115.22(a).

115.22(b)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* reiterates the language of provision 115.22(b) verbatim and uses the term “Department” in place of the term “Agency.” *Executive Directive IIU.110.0011 Investigating Sex Related Offenses* section .03 states, “The Department shall promptly, thoroughly, and objectively investigate each allegation of employee or inmate misconduct involving a sex related offense according to a uniform protocol based on recognized investigative practices that maximize evidence collection to support effective administrative dispositions and, if appropriate, criminal prosecution of the identified perpetrator.” Both *OPS.050.0001 Sexual Misconduct – Prohibited* and *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* states, “An IID investigator, or an investigator designated by the IID, shall conduct a prompt, thorough and objective investigation of every complaint of alleged sexual misconduct.”

An investigator, in regard to investigations of allegations of sexual abuse and sexual harassment within the DPSCS, is defined as a Department employee permanently assigned to, or assigned to assist, the Internal Investigative Unit (IIU) with the responsibilities specified under the Correctional Services Article, §10-701(a)(3), Annotated Code of Maryland. Maryland Correctional Services Code Ann. §10-701 establishes the IIU. Subsection (b) of the code states in part, “an investigation of the IIU may exercise the powers of a peace or police officer in the State on property that is owned, leased, operated by, or under the control of the Department.” Additionally, the agency employs investigators who are sworn police officers who are authorized under Maryland law to conduct both administrative and criminal investigations. The DPSCS website was reviewed and the policy was posted on the website. Collectively, these documents guide facility practice regarding policies to ensure the referral of allegations for investigations.

Investigative staff reported that allegations of sexual abuse and sexual harassment are first referred to the IIU for investigation. An interview with the agency head designee indicated that every allegation of sexual abuse or sexual harassment goes through IIU.

The agency does have a policy in place to ensure all allegations of sexual abuse or sexual harassment are investigated. Based on the above, the facility has demonstrated substantial compliance with provision 115.22(b).

115.22(c)

Maryland DPSCS conducts all investigations of sexual abuse and sexual harassment for the agency. Based on the above, the facility has demonstrated substantial compliance with provision 115.22(c).

115.22(d)

The auditor is not required to audit this provision.

115.22(e)

The auditor is not required to audit this provision.

Recommendations:

- None.

Corrective Action:

- None

TRAINING AND EDUCATION

Standard 115.31: Employee training

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

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*)

Instructions for Overall Compliance Determination Narrative

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

Documentation:

- *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*
- *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited*
- *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited*

- *COMAR 12.10.01.16 Correctional Training Commission* requires annual training.
- *Maryland Police and Correctional Training Commission Lesson Plan – Prison Rape Elimination Act (Correctional In-Service Training Program)*
- *Maryland Police and Correctional Training Commission Lesson Plan – Prison Rape Elimination Act (Correctional Entrance Level Training Program)*
- *The Department of Public Safety and Correctional Services Maryland Police and Correctional Training Commission Lesson Plan – Managing the Female Offender*
- Training Records

Interviews:

- Random Staff
- Training Staff

Site Review:

- None

Findings:

115.31(a)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.31(a) verbatim and uses the term “Department” in place of the term “Agency.” *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited* section .05C states, “The head of a unit, or a designee, responsible for the custody and security of an inmate, in addition to responsibilities under §.05B of this directive, shall ensure that: (1) Each employee attends approved training related to preventing, detecting, and responding to acts of sexual misconduct;” regarding staff training. Additionally, *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* section .05C states, “The head of a unit, or a designee, responsible for the custody and security of an inmate, in addition to responsibilities under §.05B of this directive, shall ensure that: (1) An employee attends approved training related to preventing, detecting, and responding to acts of inmate on inmate sexual conduct;” regarding staff training. Additionally, *COMAR 12.10.01.16 Correctional Training Commission* requires completion of annual training by December 31 of each calendar year. PREA training is part of the annual training curriculum. Collectively, these policies guide facility practice regarding employee training.

The *Maryland Police and Correctional Training Commission Lesson Plan – Prison Rape Elimination Act (Correctional In-Service Training Program)* is utilized to conduct in-service training for all current employees. The *Maryland Police and Correctional Training Commission Lesson Plan – Prison Rape Elimination Act (Correctional Entrance Level Training Program)* is utilized to conduct new employee training. Both lesson plans are very similar in content. It was noted that new employee training is more deliberate regarding how content is delivered. Given that new employees typically do not possess the knowledge that more seasoned employees possess this is to be expected. Training is two hours, lecture based with a slide presentation, and followed by a competency test. Staff must score 75% or better in order to complete the training.

The lesson plan covers the agency zero-tolerance policy for sexual abuse and sexual harassment. The lesson plan also covers the inmates’ right to be free from sexual abuse and sexual harassment and the right of inmates and employees to be free from retaliation for reporting sexual abuse and sexual

harassment. Employees are provided instruction regarding their responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures. The presentation covers characteristics of at-risk populations, characteristics associated with predatory inmates, and the dynamics of sexual abuse and sexual harassment associated with inmate populations. The warning signs of victimization are also covered in the presentation. Also covered are prevention strategies, reporting and documentation responsibilities, and response duties including evidence collection. Training covers how to communicate effectively and professionally with inmates, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming inmates. Topics include defining the terms transgender and intersex in order to provide staff with a clear understanding of the characteristics associated with these populations. Training also includes how to conduct pat-down searches of transgender and intersex inmates in a professional and respectful manner and discusses that no Inmate will be frisked or stripped searched by any staff member for the sole purpose of determining the inmate's sex. The training covers how to avoid inappropriate relationships with inmates and informs staff that romantic relationships between an inmate and a staff, volunteer, or contractor cannot be consensual. Employees are advised that termination and possibly criminal prosecution are the presumptive disciplinary sanctions for violations of agency sexual abuse and sexual harassment policy.

A total of 15 training records were randomly selected by the auditor for review. The purpose of this review was to confirm staff completed training in accordance with provision 115.31(a). Training records were obtained, reviewed, and retained for audit purposes. Training is tracked via a spreadsheet maintained by the training division. 100% of the records reviewed indicated that staff had completed PREA training. Employee signatures acknowledging the completion of training verified the information reported above.

100% of random staff reported that in-service training is provided annually, PREA is part of that training, and the training contains all the information required by provision 115.31(a). Training staff reported that all staff are required to complete training annually and the training department tracks staff progress via spreadsheet. Anyone who did not complete training was noted as having been absent for various reasons (i.e. injury, illness, scheduling conflict) and would be required to make up any missed training by the required deadline.

Based on the above, the facility has demonstrated compliance with provision 115.31(a).

115.31(b)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* reiterates the language of provision 115.31(b) verbatim and uses the term “Department” in place of the term “Agency.” The manual states, “Such training shall be tailored to the gender of the inmates at the employee’s facility. The employee shall receive additional training if the employee is reassigned from a facility that houses only male inmates to a facility that houses only female inmates, or vice versa.”

The *Department of Public Safety and Correctional Services Maryland Police and Correctional Training Commission Lesson Plan – Managing the Female Offender* is the approved lesson plan for staff working at a facility that houses female inmates. Training is one and a half hours, lecture based with a slide presentation, and followed by a competency test. Staff must score 75% or better in order to complete the training.

PATX houses both male and female inmates; therefore, staff training is tailored towards both the male and female inmate population. Records indicate that training is completed annually. A total of 15 training

records were reviewed. 80% of the records reviewed indicated that staff had completed training geared towards both the male and female inmate population.

PATX houses both male and female inmates and training is geared towards both inmate populations. Upon review it was noted that training is tailored to the gender of the inmate. Based on the above, the facility has demonstrated compliance with provision 115.31(b).

115.31(c)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* reiterates the language of provision 115.31(c) verbatim and uses the term “Department” in place of the term “Agency.” The manual states, “All current employees who have not received such training shall be trained within one year of the effective date of the PREA standards, and the Department shall provide each employee with refresher training every two years to ensure that all employees know the Department’s current sexual abuse and sexual harassment policies and procedures. In years in which an employee does not receive refresher training, the Department shall provide refresher information on current sexual abuse and sexual harassment policies.” Again, *COMAR 12.10.01.16 Correctional Training Commission* requires completion of annual training by December 31 of each calendar year. PREA training is part of the annual training curriculum.

Annual staff training records were reviewed to confirm staff completed training in accordance with provision 115.31(c). 15 training records were selected by the auditor for review. Training records were obtained, reviewed, and retained for audit purposes. Employee signatures acknowledging the completion of training were also reviewed. 100% of the training records reviewed by the auditor noted that staff have completed PREA training in accordance with *COMAR 12.10.01.16 Correctional Training Commission* requirements.

Random staff interviews indicated that in-service training is provided annually and that PREA is part of that training. Again, training staff indicated that all staff are required to complete training annually and the training department tracks staff progress to ensure completion of training. Furthermore, anyone who did not complete training may have been unable to attend for various reasons (i.e. injury, illness, scheduling conflict) and would be required to make up any missed training by the required deadline.

All staff are required to attend annual in-service training. Annual in-service training does fulfill all the requirements outlined in 115.31(c). Staff training records and information gleaned from interviews confirms that training is provided. Based on the above, the facility has demonstrated compliance with provision 115.31(c).

115.31(d)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* reiterates the language of provision 115.31(d) verbatim and uses the term “Department” in place of the term “Agency.” The manual states, “The Department shall document, through employee signature or electronic verification that employees understand the training they have received.” *COMAR 12.10.01.16 Correctional Training Commission* section F(3) states, “An agency head or training director sending a mandated employee to another academy for Commission-approved mandated employee training shall maintain records of in-service training and firearms training and qualification provided by the academy conducting the training until audited by the Commission.”

Training records were obtained, reviewed, and retained for audit purposes. A review of staff annual

training records confirmed that staff training records are indeed accompanied by signatures indicating completion of training pursuant to provision 115.31(d). Based on the above, the facility has demonstrated compliance with provision 115.31(d).

Recommendations:

- None.

Corrective Action:

- None

Standard 115.32: Volunteer and contractor training

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

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*)

Instructions for Overall Compliance Determination Narrative

The narrative below must include a comprehensive discussion of all the evidence relied upon in making the

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

Documentation:

- *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*
- *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited*
- *Maryland Police and Correctional Training Commission Lesson Plan – Prison Rape Elimination Act (Non-Academy Pre-service Orientation)*
- *Volunteer Program Administrative Manual*
- *Prison Rape Elimination Act Information Booklet for Volunteers and Contractual Workers*
- *A Guide to the Prevention and Reporting of Sexual Misconduct with Offenders*
- *Contractor and Volunteer Training Records*

Interviews:

- Contractor and volunteer interviews

Site Review:

- None

Findings:

115.32(a)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* reiterates the language of provision 115.32(a) verbatim and uses the term "Department" in place of the term "Agency." *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited* section .04B(6) defines "employee" as an individual assigned to or employed by the department in a full-time, part-time, temporary, or contractual position. Section .05C(1) states, "The head of a unit, or a designee, responsible for the custody and security of an inmate, in addition to responsibilities under §.05B of this directive, shall ensure that: Each employee attends approved training related to preventing, detecting, and responding to acts of sexual misconduct;" with regard to contractor training. Collectively, these policies and procedures guide volunteer and contractor training requirements.

Training curriculum was obtained, reviewed, and retained for audit purposes. Training is two and a half hours, lecture based with a slide presentation, and followed by a competency test. Staff must score 75% or better in order to complete the training. *Maryland Police and Correctional Training Commission Lesson Plan – Prison Rape Elimination Act (Non-Academy Pre-service Orientation)* this lesson plan covers the agency zero-tolerance policy for sexual abuse and sexual harassment. The lesson plan specifically addresses both contractors and volunteers; however, the agency indicates the lesson plan is primarily utilized for contractors. The presentation covers inmates' right to be free from sexual abuse and sexual harassment. The right of inmates and employees to be free from retaliation for reporting sexual abuse and sexual harassment. Instruction regarding contractor and volunteer responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures. Also covered are characteristics of at-risk populations, characteristics

associated with predatory inmates, the dynamics of sexual abuse and sexual harassment associated with inmate populations, and the warning signs of victimization.

Prevention strategies, reporting and documentation responsibilities, and response duties including evidence collection are also covered. The training addresses how to communicate effectively and professionally with inmates, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming inmates. Topics include defining the terms transgender and intersex in order to provide staff a clear understanding of these populations. Training also covers how to avoid inappropriate relationships with inmates and informs staff that romantic relationships between an inmate and a staff, volunteers, or contractors cannot be consensual. Employees are advised that termination and possible criminal action is the presumptive disciplinary sanction for violations of agency sexual abuse and sexual harassment policy.

The *Sexual Assault Prevention and Reporting Staff Information Brochure* is provided to contractors. This brochure covers the agency's zero tolerance policy, methods of reporting, consequences for participating in prohibited activities, and basic actions to take (i.e. separate victim and aggressor) during an incident. Volunteers and contractors are provided with the *Prison Rape Elimination Act Information Booklet for Volunteers and Contractual Workers* which is a 5-page guide that covers the agency's zero tolerance policy and outlines volunteer and contractor responsibilities as they relate to the PREA. This includes a duty to report and how to report allegations of sexual abuse and sexual harassment. The document also covers characteristics of at-risk populations, and characteristics associated with predatory inmates, and the warning signs associated with victimization. During facility orientation volunteers and contractors are also provided with the *Guide to the Prevention and Reporting of Sexual Misconduct with Offenders* pamphlet.

The *Volunteer Program Administrative Manual* guides volunteer training. According to the manual volunteers shall complete approved orientation prior to beginning an assignment and volunteer orientation shall be a minimum of 2 hours. PREA policy, reporting requirements, and initial response procedures are discussed in the training curriculum.

One mental health contractor was interviewed. During the interview it was reported that training is provided at least annually. Training covers the agency's zero tolerance policy, inmate rights and agency reporting requirements. The contract employee was also able to articulate reporting and initial response procedures.

One volunteer was interviewed. During the interview it was reported that training is provided at orientation. The volunteer indicated that orientation lasts about an hour and written materials (booklet and pamphlet) were provided. The volunteer reported that the agency zero tolerance policy, reporting responsibilities, and inmates right to be free from sexual abuse, sexual harassment, and retaliation are covered.

Eight contractor and volunteer training records were reviewed. Records indicate that training is conducted as described above. A review of training records also noted that contractor and volunteer training records were accompanied by signatures. Based on the above, the facility has demonstrated compliance with provision 115.32(a).

115.32(b)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* reiterates the language of provision 115.32(b) verbatim and uses the term "Department" in place of the

term "Agency." *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited* section .04B(6) defines "employee" as an individual assigned to or employed by the department in a full-time, part-time, temporary, or contractual position. Section .05C(1) states, "The head of a unit, or a designee, responsible for the custody and security of an inmate, in addition to responsibilities under §.05B of this directive, shall ensure that: Each employee attends approved training related to preventing, detecting, and responding to acts of sexual misconduct;" with regard to contractor training. Collectively, these policies and procedures guide volunteer and contractor training requirements.

The *Maryland Police and Correctional Training Commission Lesson Plan – Prison Rape Elimination Act (Non-Academy Pre-service Orientation)* covers the agency zero-tolerance policy for sexual abuse and sexual harassment and a myriad of other topics related to the PREA. The *Sexual Assault Prevention and Reporting Staff Information Brochure* is also provided to contractors. This brochure covers the agency's zero tolerance policy, methods of reporting, consequences for participating in prohibited activities, and basic actions to take (i.e. separate victim and aggressor) during an incident. Additionally, Volunteers and contractors are provided with the *Prison Rape Elimination Act Information Booklet for Volunteers and Contractual workers* is a 5-page guide that covers the agency's zero tolerance policy and outlines volunteer and contractor responsibilities as they relate to the PREA.

The *Volunteer Program Administrative Manual* guides volunteer training. According to the manual, volunteers shall complete orientation prior to beginning an assignment and volunteer orientation shall be a minimum of 2 hours. PREA is included amongst the training topics required before a volunteer begins an assignment.

One mental health contractor was interviewed. During the interview it was reported that training is provided at least annually. Training covers the agency's zero tolerance policy, inmate rights and agency reporting requirements. The contract employee was also able to articulate reporting and initial response procedures.

One volunteer was interviewed. During the interview it was reported that training is provided at orientation. Orientation lasts about an hour and written materials (booklet and pamphlet) were provided. The volunteer reported that the agency zero tolerance policy, reporting responsibilities, and inmates right to be free from sexual abuse, sexual harassment, and retaliation were covered.

Based on the above, the level and type of training for volunteers and contractors is consistent with services provided and level of contact with inmates. At a minimum, all volunteers and contractors receive training regarding the agency's zero tolerance policy regarding sexual abuse and sexual harassment and how to report incidents of sexual abuse and sexual harassment. Therefore, the facility has demonstrated compliance with provision 115.32(b).

115.32(c)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* reiterates the language of provision 115.32(c) verbatim and uses the term "Department" in place of the term "Agency." The manual states, "The Department shall maintain documentation confirming that volunteers and contractors understand the training they have received." The *Volunteer Program Administrative Manual* section .10B-C states, "The volunteer shall acknowledge participation and completion of assignment specific training on a form or in a format approved by the Director. A volunteer's written acknowledgement under §.10B of this *Manual* shall be maintained in the volunteer's record of service file." These documents guide facility practice regarding documentation requirements relevant to provision 115.32(c).

Eight contractor and volunteer training records were reviewed. Records indicate that training is conducted as described above. Training records were also accompanied by staff signatures acknowledging completion of training. Based on the above, the facility has demonstrated compliance with provision 115.32(c).

Recommendations:

- None.

Corrective Action:

- None

Standard 115.33: Inmate education

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

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*)

Instructions for Overall Compliance Determination Narrative

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

Documentation:

- *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*
- *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited*

- *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited*
- *Prison Rape Elimination Act Sexual Assault Awareness Brochure*
- *Maryland Coalition Against Sexual Abuse (MCASA) Brochure*
- *A Guide to the Prevention and Reporting of Sexual Misconduct with Offenders*
- *Prison Rape Elimination Act Information Acknowledgement*
- Agency PREA Video

Interviews:

- Intake Staff
- Random Sample of Inmates

Site Review:

- Intake/orientation

Findings:

115.33(a)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* reiterates the language of provision 115.33(a) verbatim and uses the term “Department” in place of the term “Agency.” *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited and Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* state, “The head of a unit, or a designee, responsible for the custody and security of an inmate, in addition to responsibilities under §.05B of this directive, shall ensure that: Department and unit policy prohibiting inmate on inmate sexual conduct, procedures for filing a complaint, and inmate rights related to inmate on inmate sexual conduct are effectively communicated to each inmate: As part of inmate orientation; By inclusion in the facility’s inmate orientation paperwork; and If applicable, the facility’s inmate handbook;” is the agency policy requiring inmate education. Collectively, these policies guide facility practice regarding inmate education.

Upon arrival, inmates are processed through the intake/orientation area and provided orientation materials specific to PATX. Included in the orientation materials is general information regarding the facility processes. Orientation materials also include a copy of the *Prison Rape Elimination Act Sexual Assault Awareness Brochure*. This brochure provides information on the agency’s zero tolerance policy for sexual abuse or sexual harassment and provides information on how to report sexual abuse and sexual harassment. Methods of reporting identified in the brochure include verbal reports to anyone, the PREA telephone hotline, or in writing via the administrative remedy process. Also included is information on how to contact MCASA advocacy services.

Inmates are also provided information regarding the definitions of sexual abuse and sexual harassment. Also included is information regarding an inmate’s right to be free from sexual abuse, sexual harassment, and retaliation for reporting such incidents. Inmates also receive a copy of the *A Guide to the Prevention and Reporting of Sexual Misconduct with Offenders* brochure. This brochure is developed for staff; however, it does contain contact information for the IIU investigation unit and agency PREA coordinator. Lastly, all incoming inmates watch the agency PREA video presentation.

Intake staff reported that every inmate who enters the institution receives the orientation materials described above. Furthermore, orientation is typically conducted immediately upon arrival. This

information is provided in writing, verbally, and via video followed by an opportunity to ask staff questions.

88% of inmates interviewed reported having received information about the facility's rules against sexual abuse and sexual harassment. 15 files were randomly selected for the purpose of evaluating intake records. Intake receipts signed by the inmate indicating receipt of orientation materials are kept in the inmate file confirmed participation. It should be noted that 80% of the inmate file documentation confirmed that inmates had received the information on the day of arrival.

The facility has demonstrated that a process is in place to provide inmates with the information required by provision 115.33(a). The institutional process was found to be adequate regarding providing the necessary information at intake. Based on the above, the facility has demonstrated substantial compliance with provision 115.33(a).

115.33(b)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* reiterates the language of provision 115.33(b) verbatim and uses the term "Department" in place of the term "Agency." *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited and Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* state, "The head of a unit, or a designee, responsible for the custody and security of an inmate, in addition to responsibilities under §.05B of this directive, shall ensure that: Department and unit policy prohibiting inmate on inmate sexual conduct, procedures for filing a complaint, and inmate rights related to inmate on inmate sexual conduct are effectively communicated to each inmate: As part of inmate orientation; By inclusion in the facility's inmate orientation paperwork; and If applicable, the facility's inmate handbook;" are the agency policies requiring inmate education. Collectively, these policies guide agency and facility practice regarding inmate education.

Comprehensive orientation is conducted in the intake/orientation area of the facility. Inmates are provided orientation materials specific to PATX. Included in the orientation materials is general information regarding facility processes and a copy of the *Prison Rape Elimination Act Sexual Assault Awareness Brochure*. The brochure contains information on the agency's zero tolerance policy for sexual abuse or sexual harassment and provides information on how to report sexual abuse and sexual harassment. Methods of reporting identified in the brochure include verbal reports, the PREA telephone hotline, and in writing. Also included is information on how to access MCASA advocacy services.

Inmates are provided information regarding the definitions of sexual abuse, sexual harassment, and inmate's right to be free from sexual abuse, sexual harassment, and retaliation for reporting such incidents. Inmates also receive a copy of the *A Guide to the Prevention and Reporting of Sexual Misconduct with Offenders* brochure. This brochure is developed for staff; however, it does contain contact information for the IIU investigation unit and agency PREA coordinator. Lastly, all incoming inmates watch the agency PREA video presentation.

Intake staff reported that every inmate who enters the institution receives the orientation materials described above. Furthermore, orientation is typically conducted immediately upon arrival. Educational information is provided in writing, via video, and verbally. Educational sessions are guided by staff who are present to answer any questions.

88% of inmates reported that they have received information about the facility's rules against sexual abuse and sexual harassment. 15 random files were selected for the purpose of evaluating intake

records. Intake receipts verifying completion of orientation are signed by the inmate and placed in the inmate file. A review of intake receipts confirmed that 80% of inmates received information on the day of arrival. Orientation provides inmates with all the information required by provision 115.33(b). Based on the above, the facility has demonstrated substantial compliance with provision 115.33(b).

115.33(c)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* reiterates the language of provision 115.33(c) verbatim and uses the term “Department” in place of the term “Agency.” *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited and Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* state, “The head of a unit, or a designee, responsible for the custody and security of an inmate, in addition to responsibilities under §.05B of this directive, shall ensure that: Department and unit policy prohibiting inmate on inmate sexual conduct, procedures for filing a complaint, and inmate rights related to inmate on inmate sexual conduct are effectively communicated to each inmate: As part of inmate orientation; By inclusion in the facility’s inmate orientation paperwork; and If applicable, the facility’s inmate handbook;” are the agency policies requiring inmate education. Collectively, these policies guide agency/facility practice regarding inmate education.

Agency education information is standardized and does not change from one facility to the next. Nevertheless, the process for all incoming PATX inmates is the same, regardless of how the inmate arrived at the facility. All inmates go through the same intake and comprehensive orientation process. Any difference would be dependent upon the specific needs of the inmate (i.e. interpreter services). All inmates are provided with personal copies of brochures and handbooks containing information regarding inmates’ rights to be free from sexual abuse and sexual harassment. Information regarding how to report sexual abuse and sexual harassment is also provided. Inmates are also provided with personal copies of information regarding how to contact advocacy, emotional support, and third-party reporting services.

A review of file documentation, interviews with inmates, and interviews with staff indicate that all inmates receive the same information. Based on the above, the facility has demonstrated compliance with 115.33(c).

115.33(d)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* reiterates the language of provision 115.33(d) stating, “The Department shall provide inmate education in formats accessible to all inmates, including those who are limited English proficient, deaf visually impaired, or otherwise disabled, as well as to inmates who have limited reading skills.” *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited* section .05C(5) states, “Procedures are in place that eliminate barriers that would prevent or inhibit an individual from reporting alleged sexual misconduct to any one or all of the parties listed under §.05E(4) of this directive;” regarding inmate education. Collectively, these policies guide agency/facility practice regarding inmate education.

Upon arrival inmates are processed through the intake/orientation area. Inmates are provided orientation materials specific to PATX. Included in the orientation materials is general information regarding facility processes. Orientation materials include a copy of the *Prison Rape Elimination Act Sexual Assault Awareness Brochure* and how to contact MCASA for advocacy services. Information is provided in both English and Spanish.

Comprehensive orientation includes a video presentation that provides information regarding inmates’

rights to be free from sexual abuse, sexual harassment, and retaliation for reporting such incidents. Information regarding agency policies and procedures for responding to incidents is also provided. The video presentation has audio and is also available in Spanish. If necessary, telephone interpretation services are available through Language Line Solutions.

As previously discussed, inmates are provided with a personal copy of brochures and handbooks containing information regarding inmates' rights, reporting methods, advocacy, emotional support, and third-party reporting services. The information is available in both English and Spanish based on the inmates' needs. Based on the above, the facility has demonstrated compliance with provision 115.33(d).

115.33(e)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* reiterates the language of provision 115.33(e) states, "The Department shall maintain documentation of inmate participation in these education sessions." This policy guides facility practice regarding inmate education.

Nineteen files were randomly selected for the purpose of evaluating documentation of inmate participation in comprehensive orientation. Upon completion, inmates sign the *Prison Rape Elimination Act (PREA) Information Acknowledgement* form acknowledging participation in comprehensive orientation. A review of inmate file documentation indicates that 84% inmates acknowledged participation in orientation via signature.

Based on the above, the facility has demonstrated substantial compliance with provision 115.33(e).

115.33(f)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* reiterates the language of provision 115.33(f) stating, "In addition to providing such education, the Department shall ensure that key information is continuously and readily available or visible to inmates through posters, inmate handbooks, or other written formats." This policy guides facility practice regarding inmate education.

PREA information was observed to be continuously and readily available to the inmate population. PREA signage containing hotline contact information and information for the Maryland Coalition Against Sexual Abuse (MCASA) was observed to be posted throughout the institution. Signage was observed to be available in both English and Spanish and posted in areas easily accessible to the inmate population.

Information was noted as being posted throughout the facility. Inmates are also provided with a personal copy of information regarding how to contact advocacy, emotional support, and third-party reporting services. Based on the above, the facility has demonstrated compliance with provision 115.33(f).

Recommendations:

- None

Corrective Action:

- None

Standard 115.34: Specialized training: Investigations

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

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*)

Instructions for Overall Compliance Determination Narrative

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

Documentation:

- *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*
- *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited*
- *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited*
- *Executive Directive IIU.110.0011 Investigating Sex Related Offenses*
- *Maryland Police and Correctional Training Commission Lesson Plan – Specialized Training: Investigations*
- *Position Description Internal Investigative Unit Position Description*

Interviews:

- Investigative Staff

Site Review:

- None

Findings:

115.34(a)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* reiterates the language of provision 115.34(a). The manual states, "(a) In addition to the general training provided to all employees pursuant to 115.31, the Department shall ensure that, to the extent the Department itself conducts sexual abuse investigations, its investigators have received training in conducting such investigations in confinement settings. *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited* and *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* section .05G(2) states in part, "To the extent possible, but in every case where the allegation of alleged sexual misconduct involves sexual abuse, the investigator assigned to investigate the allegation shall have received specialized training related to conducting sexual abuse investigations."

Executive Directive IIU.110.0011 Investigating Sex Related Offenses section .03B states, "Department personnel assigned to conduct an investigation of alleged employee or inmate misconduct involving sex related offense shall be trained in techniques related to conducting investigations of sex related offenses in the correctional setting." These policies and procedures guide agency practice regarding specialized training for investigators.

Internal Investigative Unit (IIU) has jurisdiction over both administrative and criminal investigations. Initially, IIU handles all allegations of sexual abuse and sexual harassment. IIU investigators are generally all detectives and former police officers with experience in conducting investigations. Furthermore, IIU investigators are required to meet training standards in order to maintain law enforcement certification within the State of Maryland.

All investigations of sexual abuse and sexual harassment, criminal and administrative, are initially forwarded to IIU. IIU will subsequently determine if the allegation will be investigated locally by facility staff or investigated by an IIU detective. The agency provided the *Maryland Police and Correctional Training Commission Lesson Plan – Specialized Training: Investigations*. Training is required of all IIU detectives before conducting sexual abuse and sexual harassment investigations. Upon completion of training, IIU detectives are issued a certificate of completion indicating that the detective has successfully completed training in conducting PREA investigations.

One IIU detective was interviewed. The IIU detective reported that sexual abuse investigation training is covered during PREA in-service training and the police academy. Training records indicate that all IIU detectives have been trained in accordance with this standard. One local PATX investigator was interviewed. The local PATX investigator reported that field investigator training was completed 14 years ago. Training records did not include records for the facility-based investigator. The facility shall provide specialized investigator training records for the PATX based investigator.

The agency does maintain documentation of IIU investigators who have completed specialized training in the conduct of sexual abuse investigations. However, investigator training records are insufficient to demonstrate compliance. Training records for the PATX based investigators are necessary to demonstrate compliance with provision 115.34(a). Based on the above, the facility does not comply with provision 115.34(a).

115.34(b)

The agency submitted the *Maryland Police and Correctional Training Commission Lesson Plan – Specialized Training: Investigations* as the curriculum utilized to train staff in the conduct of sexual abuse and sexual harassment investigations. The "General Comments" section on page 2 states, "This lesson plan is intended for use with Department personnel assigned to conduct an investigation of an allegation of misconduct that involves a sex related offense. This lesson will give participants the information they will need to conduct criminal and administrative investigations compliant with the Prison Rape Elimination Act." *Executive Directive IIU.110.0011 Investigating Sex Related Offenses* defines all the related PREA terms, explains the responsibility of employees who observe or have knowledge of an incident, outlines the requirements for investigating sex related offenses as well as responding to them, including treating the victim as well as the perpetrator. The Maryland Police and Correctional Training Commissions Lesson Plan titled *Specialized Training Investigations for PREA* indicates what training is received by the special investigators. This includes the definition, purpose and history of PREA, definitions, first responder duties, medical examinations, comprehensive investigations, evidence collection, interviewing the victim, suspect and witnesses, Miranda rights, Garrity rights, and handling false accusations. Collectively, these documents guide agency practice regarding investigator training.

The *Maryland Police and Correctional Training Commission Lesson Plan – Specialized Training: Investigations* is a 4-hour training program including a slide presentation, video presentation, role play activities, handouts followed by a competency test. Staff must score 75% or better in order to complete the training. Training topics include techniques for interviewing the victim, including consideration for the emotional state of the victim, and the inability of the victim to recall information immediately after an event. Training curriculum includes discussion on proper use of Miranda rights and Garrity rules relative to inmates and staff interviews. Forensic medical exams are conducted at a local medical facility. However, training does cover evidence collection processes that are likely to be performed by a Sexual Assault Nurse Examiner (SANE) or Sexual Assault Forensic Examiner (SAFE). Training does cover investigatory staff evidence collection processes and procedures relevant to the collection and packaging of evidence correctly. Training advises staff to be mindful of items that may be wet or soiled with biologically hazardous materials and to ensure that evidence is labeled, packaged, catalogued, and stored in a manner that preserves evidence and establishes an accurate chain of custody. *Executive Directive IIU.110.0011 Investigating Sex Related Offenses* is a supplemental handout that accompanies and covers evidentiary standards up to and including referring an investigation for possible prosecution.

One IIU detective was interviewed. The detective reported that sexual abuse investigation training is covered during PREA in-service training and at the police academy. Topics discussed during specialized investigator training include how to process a scene, interviewing techniques, witness interviews, video forensic examinations, how to take statements, and how to develop a conclusion to the investigation. Training records for IIU based detectives were reviewed and verify that IIU detectives have been trained.

The local facility investigator demonstrated knowledge of scene preservation, evidence collection in confinement settings, and evidentiary standards required to substantiate a case for administrative or prosecution referral. The local investigator also advised that training included proper use of Miranda and Garrity warnings. However, the local investigator was unable to recall techniques for interviewing sexual abuse victims as a training topic.

Based on the above, the facility has demonstrated compliance with provision 115.34(b).

115.34(c)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* reiterates the language of provision 115.34(c). The manual states, “The Department shall maintain documentation that agency investigators have completed the required specialized training in conducting sexual abuse investigations.”

The agency does maintain documentation that agency investigators have completed specialized training in the conduct of sexual abuse investigations. However, local investigator training records are insufficient to demonstrate compliance. Training records for PATX based investigators are necessary to demonstrate compliance with provision 115.34(c). Based on the above, the facility does not comply with provision 115.34(c).

115.34(d)

The auditor is not required to audit this provision.

Recommendations:

- None

Corrective Action:

- 115.34(a)&(c): Investigator training records are insufficient to demonstrate compliance. Training records for the PATX based investigators necessary to demonstrate compliance with provision 115.34(a) or provision 115.34(c). PATX shall submit training records for PATX based investigators.

Corrective Action Verification:

- The facility provided *Patuxent Institution Directive PATX.020.0026*. Section .03J states, "All allegations of staff sexual misconduct or inmate on inmate sexual abuse investigations or any PREA related criminal and administrative investigations will be conducted by the Internal Investigative Division (IID)." Thus, all sexual abuse investigations are referred to IIU detectives who have received specialized training pursuant to the standard. Considering the documentation provided, evidence gathered during the interview process, and a review of facility investigative records the facility has demonstrated that facility-based investigators do not conduct sexual abuse investigations. All sexual abuse investigations are conducted by IIU detectives. Based the above, the facility has demonstrated compliance with provisions 115.34(a) and provision 115.34(c).

Standard 115.35: Specialized training: Medical and mental health care**All Yes/No Questions Must Be Answered by the Auditor to Complete the Report****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*)

Instructions for Overall Compliance Determination Narrative

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

Documentation:

- *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*
- *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited*
- *Medical and Mental Health Training Presentation*
- *Training Records*

Interviews:

- *Medical and mental health staff*

Site Review:

- *None*

115.35(a)

The Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual restates the language of provision 115.35(a) verbatim and uses the term “Department” in place of the term “Agency.” Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited section .04B(6) defines “employee” as an individual assigned to or employed by the department in a full-time, part-time, temporary, or contractual position. Section .05C(1) states, “The head of a unit, or a designee, responsible for the custody and security of an inmate, in addition to responsibilities under §.05B of this directive, shall ensure that: Each employee attends approved training related to preventing, detecting, and responding to acts of sexual misconduct;” with regard to contractor training. Collectively, these policies guide facility practice regarding specialized training for medical and mental health care staff.

Medical and mental health staff are contract employees. Completion of the Maryland Police and Correctional Training Commission Lesson Plan – Prison Rape Elimination Act (Non-Academy Pre-service Orientation) is required. Medical and mental health staff are also required to complete the *Medical and Mental Health Training* program provided by the contractor.

The contractor training curriculum *Medical and Mental Health Training Presentation* was obtained, reviewed, and retained for audit purposes. Training is lecture based accompanied by a slide presentation and followed by a test. The lesson plan covers the agency zero-tolerance policy for sexual abuse and sexual harassment. Topics covered include inmates’ right to be free from sexual abuse and sexual harassment and the right of inmates and employees to be free from retaliation for reporting sexual abuse and sexual harassment. Training also covers physical and emotional reactions to sexual abuse. Instruction regarding detection, reporting, response duties, response policies and procedures evidence collection, treatment and limits of confidentiality.

Medical and mental health staff also received the *Sexual Assault Prevention and Reporting Staff Information Brochure* and the *Prison Rape Elimination Act Information Booklet for Volunteers and Contractual Workers*. This information covers the agency’s zero tolerance policy, methods of reporting, consequences for participating in prohibited activities, and basic actions to take (i.e. separate victim and aggressor) during an incident. This includes a duty to report and how to report allegations of sexual abuse and sexual harassment. The information also covers characteristics of at-risk populations, and characteristics associated with predatory inmates, and the warning signs associated with victimization.

Medical and mental health staff were interviewed. Staff reported that training is provided annually and included how to detect and assess signs of sexual abuse and sexual harassment, how to preserve physical evidence, how to respond to victims of sexual abuse and sexual harassment, and to whom to report allegations of sexual abuse and sexual harassment. Medical staff demonstrated knowledge in the training curriculum and was able to provide examples for each of the criteria listed in provision 115.35(a). Mental health staff indicated that training is provided at least annually. Topics included agency zero tolerance policy, reporting responsibilities, and how to detect and respond to an incident of sexual abuse and sexual harassment. Three medical and mental health training records were reviewed. Records verify information obtained during interviews and appear to comply with agency policy requirements.

Based on the above, the facility has demonstrated compliance with 115.35(a).

115.35(b)

Neither the agency nor the facility will conduct a forensic medical exam. If a forensic exam were medically appropriate or necessary to preserve evidence the victim would be transported to Mercy Medical Center

in Baltimore, Maryland. An internet search revealed that Mercy Medical Center has a dedicated treatment center for sexual assault and domestic violence victims. Mercy Medical Center has 30 specially trained Forensic Nurse Examiners available 24 hours a day seven days a week.

Medical staff verified that forensic examinations are not conducted on-site. Sexual abuse victims would be transported off-site to Mercy Medical Center for a forensic examination. It should be noted that investigation documents confirm that transport to Mercy Medical Center is the current practice when a forensic examination is required.

Based on discussion with both medical and facility staff it is evident that facility health care staff do not conduct forensic medical exams. All forensic medical exams are conducted at a local hospital. Based on the above, the facility has demonstrated compliance with provision 115.35(b).

115.35(c)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.35(c) verbatim and uses the term “Department” in place of the term “Agency.” *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited* section .04B(6) defines “employee” as an individual assigned to or employed by the department in a full-time, part-time, temporary, or contractual position. Section .05C(1) states, “The head of a unit, or a designee, responsible for the custody and security of an inmate, in addition to responsibilities under §.05B of this directive, shall ensure that: Each employee attends approved training related to preventing, detecting, and responding to acts of sexual misconduct;” with regard to contractor training. Medical and mental health care workers are contract employees. Therefore, agency policy regarding contract employee training is applicable. Collectively, these policies guide facility practice regarding specialized training for medical and mental health care staff.

Agency policy applicable requires contract employees to participate in agency training. Training records demonstrating medical and mental health staff participation in training sessions were reviewed. Records indicate that medical staff received training in the PREA (Prison Rape Elimination Act) and were accompanied by a signed signature sheet.

Based on the above, the facility has demonstrated compliance with 115.35(c).

115.35(d)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.35(d) verbatim and uses the term “Department” in place of the term “Agency.” The manual states, “Medical and mental health care practitioners shall also receive the training mandated for employees under §115.31 or for contractors and volunteers under § 115.32, depending upon the practitioner’s status at the Department.” *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited* section .04B(6) defines “employee” as an individual assigned to or employed by the department in a full-time, part-time, temporary, or contractual position. Section .05C(1) states, “The head of a unit, or a designee, responsible for the custody and security of an inmate, in addition to responsibilities under §.05B of this directive, shall ensure that: Each employee attends approved training related to preventing, detecting, and responding to acts of sexual misconduct;” with regard to contractor training.

Medical and mental health staff are contract employees and must complete the agency’s training via the *Maryland Police and Correctional Training Commission Lesson Plan – Prison Rape Elimination Act*

(Non-Academy Pre-service Orientation). Training is lecture based accompanied by a slide presentation and followed by a test. Collectively, these policies and procedures serve as the authoritative documents that guide volunteer and contractor training requirements.

The only contract staff available during the on-site audit were medical staff and mental health care staff. Interviews indicated that training is provided annually. Interview responses indicate that medical and mental health staff received training that is consistent with the curriculum outlined in *Maryland Police and Correctional Training Commission Lesson Plan – Prison Rape Elimination Act (Non-Academy Pre-service Orientation)* and *Sexual Assault Prevention and Reporting Staff Information Brochure* and the *Prison Rape Elimination Act Information Booklet for Volunteers and Contractual Workers*. Medical and mental health staff training records were reviewed. Records indicate that medical staff received training in accordance with agency policy.

Based on the above, the facility has demonstrated compliance with 115.35(d).

Recommendations:

- None

Corrective Action:

- None

SCREENING FOR RISK OF SEXUAL VICTIMIZATION AND ABUSIVENESS

Standard 115.41: Screening for risk of victimization and abusiveness

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

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

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*)

Instructions for Overall Compliance Determination Narrative

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

Documentation:

- *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*
- *Executive Directive OPS.200.0006 Assessment for Risk of Sexual Victimization and Abusiveness*
- *PREA Intake Screening*
- *Risk Screening Records*

Interviews:

- Random Inmates
- Intake Staff
- Staff who Perform Screening for risk of Victimization and Abusiveness
- PREA Coordinator
- PREA Compliance Manager

Site Review:

- File Room

115.41(a)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.41(a) verbatim and uses the term "Department" in place of the term "Agency." The manual states, "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." *Executive Directive OPS.200.0006 Assessment for Risk of Sexual Victimization and Abusiveness* establishes policy and assigns responsibilities for screening individuals housed in a correctional facility under the authority of the Department of Public Safety and Correctional Services to assess the risk of the individual being sexually abused or being sexually abusive towards other inmates. Collectively, these policies guide facility practice regarding screening for risk of victimization and abusiveness.

The agency uses the *PREA Intake Screening* form to assess inmate risk of sexual victimization and risk of sexually abusing other inmates. A random sample of 19 inmate *PREA Intake Screening* forms were reviewed. 100% of the random sample was screening using the *PREA Intake Screening* form. The documentation suggests that inmates are being screened at intake and upon transfer.

Upon arrival to PATX inmates are processed through the intake/orientation area. The initial risk screening is completed upon arrival to PATX in the intake/orientation area prior to the inmate receiving a cell/bunk assignment. Risk screening is conducted by staff who personally interview the inmate in a private setting. Intake/orientation staff complete the *PREA Intake Screening* form. Interviews with intake/orientation staff indicate that the *PREA Intake Screening* form is utilized to conduct screening for the risk of sexual victimization and risk of sexually abusing other inmates. A total of 17 of the 24 inmates randomly selected for interviews reported having arrived at PATX within the past 12 months. One inmate reported having arrived on the day of the audit and hadn't been screened at the time of the interview. Upon further review 75% of inmates who arrived in the past 12 months, excluding the new arrival, reported being asked questions related to the *PREA Intake Screening* form.

A total of 19 inmate files were randomly selected by the auditor for review. 100% of the inmate files reviewed indicated that initial risk screening had been completed.

Through sample document analysis, interviews, and onsite observations, PATX has demonstrated that inmates are screened at intake and upon transfer into the facility. Based on the above, the facility appears to be in compliance with provision 115.41(a).

115.41(b)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.41(b) verbatim and uses the term "Department" in place of the term "Agency." The manual states, "Intake screening shall ordinarily take place within 72 hours of arrival at the facility." *Executive Directive OPS.200.0006 Assessment for Risk of Sexual Victimization and Abusiveness* section .05B(1) states, "That each managing official designate sufficient intake, custody, or case management staff to assess each inmate for risk of sexual victimization or potential for abusiveness within 72 hours of arrival at a facility" with regard to risk screening. Collectively, these policies guide facility practice regarding screening for risk of victimization and abusiveness.

A random sample of 17 inmate *PREA Intake Screening* forms were reviewed for compliance with the 72-hour requirement. Upon further analysis, 82% of the *PREA Intake Screening* forms reviewed were compliant with the 72-hour requirement. A review of the documentation noted that the risk screening process has become more consistent over time. Specifically, the span of time between arrival and the initial risk screening has decreased over time. Older risk screening forms were noted as having larger gaps in time between the arrival of the inmate and completion of the initial risk screening. Conversely, risk screening forms that were completed more recently showed a decrease in the time between arrival and completion of the initial risk screening.

Interviews indicate that risk screening duties are split between intake/orientation staff and case management staff. Intake/orientation staff complete the 72-hour risk screening, while case management staff will reassess the inmate within 30 from the inmate's arrival. Staff who conduct initial risk screening report that the initial risk assessment is usually completed immediately upon arrival to PATX. Furthermore, risk screening is conducted by staff who personally interview the inmate in a private setting.

Through sample document analysis, interviews, and onsite observations, PATX has demonstrated that inmates are screened within the 72-hour requirement. Based on the above, the facility appears to be in compliance with provision 115.41(b).

115.41(c)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.41(c) verbatim. The manual states, “Such assessments shall be conducted using an objective screening instrument.” *Executive Directive OPS.200.0006 Assessment for Risk of Sexual Victimization and Abusiveness* section .05A requires the implementation of a screening instrument and cites the criteria utilized to perform the risk assessment. The *PREA Intake Screening* form is the agency-approved standardized screening instrument. A blank copy of the *PREA Intake Screening* form was obtained, reviewed, and retained by the auditor. The *PREA Intake Screening* form is a one-page form that assigns a numerical point value to questions regarding risk of victimization and risk of abusiveness categories. The form considers 12 separate inmate risk of victimization factors and risk of abusiveness factors. Each risk factor is assigned a numerical point value based on the information obtained from an interview with the inmate and information gleaned from inmate records. Questions are generally assigned 1 point for each answer. Collectively, these policies guide facility practice regarding screening for risk of victimization and abusiveness.

Risk of victimization designations are determined by comparing the sum of the risk of victimization factor score relative to a vulnerability scoring range of (0-3) low risk, and (4 or more) as at risk of victimization. Risk of abusiveness designations are determined by comparing the sum of the risk of abusiveness factor score relative to a scoring range of (3 or more points) being at risk of abusiveness.

Based on the above, PATX has demonstrated that an objective screening instrument is utilized to objectively screen inmates. The *PREA Intake Screening* form contains a scoring mechanism and relevant scoring range that ensures consistency in scoring. Therefore, the facility appears to be in compliance with 115.41(c).

115.41(d)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.41(d) verbatim and uses the term “Department” in place of the term “Agency.” *Executive Directive OPS.200.0006 Assessment for Risk of Sexual Victimization and Abusiveness* section .05A(1) requires the implementation of a screening instrument and cites the criteria utilized to perform the risk assessment. The *PREA Intake Screening* form is the agency-approved standardized screening instrument. A blank copy of the *PREA Intake Screening* form was obtained, reviewed, and retained by the auditor. The *PREA Intake Screening* form is a one-page form that assigns a numerical point value to questions regarding risk of victimization and risk of abusiveness categories. Collectively, these documents guide facility practice regarding screening for risk of victimization and abusiveness.

The *PREA Intake Screening* form considers 12 separate inmate risk of victimization factors. Factors considered in the risk of victimization category include whether the inmate has a mental, physical, or developmental disability, the age of the inmate, the physical build of the inmate, if the inmate has previously been incarcerated, if the inmate’s criminal history is exclusively nonviolent, prior convictions for sex offenses against an adult or child, previously experienced sexual victimization, the inmate’s own perception of vulnerability, and if the inmate is gay, lesbian, bisexual, transgender, intersex, or gender nonconforming. The *PREA Intake Screening* form also considers if the inmate has ever been approached for sex/threatened with sexual assault while incarcerated and if the inmate has ever had consensual sex while incarcerated. The risk screening form does require file review and observation to confirm inmate responses. The documentation suggests that the agency does not house inmates solely for civil immigration purposes. Therefore, this item does not appear on the *PREA Intake Screening* form.

However, the *PREA Intake Screening* form does not consider whether the inmate is perceived to be intersex or gender nonconforming. This is not part of the risk of victimization factors included in the *PREA Intake Screening* form. These criteria are specifically required by Provision 115.41(d)(7). In addition, interpretive guidance by the Department of Justice has clarified that there must be both an objective and a subjective determination for this criterion. The screening instrument must to capture whether the inmate “is perceived to be” LGBTI or gender nonconforming. The rationale being that even if the inmate does not disclose this status, but is perceived this way, the increase in risk is still present. The *PREA Intake Screening* does not consider whether the inmate is detained solely for civil immigration purposes. However, documentation indicates that the DPSCS does not house inmates solely for civil immigration purposes.

Interviews indicate that risk screening duties are split between intake/orientation staff and case management staff. Intake/orientation staff complete the 72-hour risk screening, while case management staff reassess the inmate within 30 days from the inmate’s arrival. Intake/orientation staff who conduct the initial risk screening reported that the criteria are provided in a checklist format on the *PREA Intake Screening* form. Case management staff who conduct the 30-day reassessment, confirmed that the *PREA Intake Screening* form is the document utilized to conduct risk screening.

A review of the *PREA Intake Screening* form revealed that it does not consider all the criteria required by provision 115.41(d)(7). Therefore, the screening instrument should be amended to capture whether the inmate is perceived to be LGBTI or gender nonconforming. Based on the above, the facility has not demonstrated compliance with provision 115.41(d).

115.41(e)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.41(e) verbatim. *Executive Directive OPS.200.0006 Assessment for Risk of Sexual Victimization and Abusiveness* section .05A(2) requires the implementation of a screening instrument and cites the criteria utilized to perform the risk assessment.

The *PREA Intake Screening* form is the agency-approved standardized screening instrument. A blank copy of the *PREA Intake Screening* form was obtained, reviewed, and retained by the auditor. The *PREA Intake Screening* form is a one-page form that assigns a numerical point value to questions regarding risk of victimization and risk of abusiveness categories. Collectively, these documents guide facility practice regarding screening for risk of victimization and abusiveness.

The *PREA Intake Screening* form considers six separate inmate risk of abusiveness factors. Factors considered in the risk of abusiveness category include prior acts of sexual abuse, prior convictions for violent offenses and a history of prior institutional violence or sexual abuse. The instrument also considers a history of violent crimes including pending and current charges and a history of domestic violence including pending and current charges. Additionally, the risk screening form does require file review and observation to confirm inmate responses.

Interviews indicate that risk screening duties are split between intake/orientation staff and case management staff. Intake/orientation staff complete the 72-hour risk screening, while case management staff will reassess the inmate within 30 days from the inmate’s arrival. Intake/orientation staff who conduct the initial risk screening reported that the criteria are provided in a checklist format on the *PREA Intake Screening* form. Case management staff who conduct the 30-day reassessment, confirmed that the *PREA Intake Screening* form is the document utilized to conduct risk screening.

A review of the *PREA Intake Screening* form revealed that all the criteria required by provision 115.41(e) are considered. Based on the above, the facility has demonstrated compliance with provision 115.41(e).

115.41(f)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.41(f) verbatim and uses the term “Department” in place of the term “Agency.” The manual states, “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.” *Executive Directive OPS.200.0006 Assessment for Risk of Sexual Victimization and Abusiveness* section .05B(2) requires case management staff to re-assess each inmate within 30 days of the inmate’s arrival at the facility. Collectively, these policies guide facility practice regarding screening for risk of victimization and abusiveness.

The *PREA Intake Screening* form is utilized to conduct the 30-day re-assessment. A blank copy of the *PREA Intake Screening* form was obtained, reviewed, and retained by the auditor. The *PREA Intake Screening* form is a one-page form that assigns a numerical point value to questions regarding risk of victimization and risk of abusiveness categories. A review of 19 randomly selected inmate risk re-assessment records noted that 82% of risk screening re-assessments were completed within 30 days. Eight inmate risk screening re-assessment records were not counted due to the arrival date of the inmate. Seven inmates were noted as having recently arrived; therefore, the risk screening re-assessment was not due. One inmate was noted as having been at the institution prior to the implementation of the risk screening reassessment process.

Case management staff who perform risk screening re-assessments reported that re-assessments are conducted within 30 days and generally within two weeks after the inmate arrived at the facility. Intake/orientation staff indicated that risk screening re-assessments are due within 30 days. 75% of inmates who should have been re-assessed were unable to recall having been asked questions that would be associated with the *PREA Intake Screening* form a second time. Three inmates were noted as having recently arrived; therefore, the risk screening re-assessment was not due. Four inmates were noted as having been at the institution prior to the implementation of the risk screening re-assessment process. One inmate was noted as being unsure.

The *PREA Intake Screening* form does not consider whether the inmate is perceived to be intersex or gender nonconforming. This is not part of the risk of victimization factors included in the *PREA Intake Screening* form. These criteria are specifically required by Provision 115.41(d)(7). In addition, interpretive guidance by the Department of Justice has clarified that there must be both an objective and a subjective determination for this criterion. The screening instrument must capture whether the inmate “*is perceived to be*” LGBTI or gender nonconforming. The rationale being that even if the inmate does not disclose this status, but is perceived in this way, the increase in risk is still present. Therefore, risk screening reassessment rely upon a non-compliant risk screening instrument.

Documentation and interviews indicate that 30-day risk screening re-assessments are being completed. However, the risk screening instrument itself does not comply with Standard 115.41. Based on the above, the facility did not demonstrate substantial compliance with provision 115.41(f).

115.41(g)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.41(g) verbatim and uses the term “Department” in place of the term “Agency.” The manual states, “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.” *Executive Directive OPS.200.0006 Assessment for Risk of Sexual Victimization and Abusiveness* section .05B(4) requires case management staff to re-assess an inmate’s risk level when warranted due to a referral, request, incident of sexual abuse, or receipt of additional information that bears on the inmate’s risk of sexual victimization or potential for abusiveness.”

A review of investigation files indicated one instance where a risk re-assessment may have been necessary. However, the inmate was no longer housed at PATX and the inmate file documentation had already been transferred. The *PREA Intake Screening* form is utilized to conduct any re-assessment. A blank copy of the *PREA Intake Screening* form was obtained, reviewed, and retained by the auditor. The *PREA Intake Screening* form is a one-page form that assigns a numerical point value to questions regarding risk of victimization and risk of abusiveness categories. Collectively, these documents guide facility practice regarding screening for risk of victimization and abusiveness.

Staff who perform risk screening indicated that a re-assessment is conducted upon receiving information that an inmate has been abused, harassed, or something has changed regarding the initial assessment. Generally, inmates were unable to recall having been asked questions that would be associated with the *PREA Intake Screening* form a second time.

The *PREA Intake Screening* form does not consider whether the inmate is perceived to be intersex or gender nonconforming. This is not part of the risk of victimization factors included in the *PREA Intake Screening* form. These criteria are specifically required by Provision 115.41(d)(7). In addition, interpretive guidance by the Department of Justice has clarified that there must be both an objective and a subjective determination for this criterion. The screening instrument must capture whether the inmate “*is perceived to be*” LGBTI or gender nonconforming. The rationale being that even if the inmate does not disclose this status, but is perceived this way, the increase in risk is still present. Therefore, risk screening reassessments rely upon a non-compliant risk screening instrument.

Though the facility may be conducting risk screening reassessments 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. The risk screening instrument itself is non-compliant with Standard 115.41. Therefore, the facility has not demonstrated compliance with provision 115.41(f).

115.41(h)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.41(h). The manual states, “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.” *Executive Directive OPS.200.0006 Assessment for Risk of Sexual Victimization and Abusiveness* section .05B(5) states that inmates will not be disciplined for refusing to answer or disclosing complete information in response to screening questions. Collectively, these policies guide facility practice regarding screening for risk of victimization and abusiveness.

Two staff who perform risk screening were interviewed. Staff reported that inmates are not disciplined

for refusing to respond or for not disclosing complete information. Based on the above, PATX does not discipline inmates for refusing to respond or for not disclosing complete information during risk assessments. Therefore, the facility has demonstrated compliance with provision 115.41(h).

115.41(i)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.41(i) verbatim and uses the term “Department” in place of the term “Agency.” The manual states, “The Department 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.” *Executive Directive OPS.200.0006 Assessment for Risk of Sexual Victimization and Abusiveness* section .05B(6) requires, “Appropriate controls to be in place for facility dissemination of information collected during screening to ensure that sensitive information is not exploited to the inmate’s detriment by staff or other inmates.” Collectively, these policies guide facility practice regarding screening for risk of victimization and abusiveness.

Upon completion, the *PREA Intake Screening* form is placed in the inmate file. Inmate files are secured in the file room within a locked cabinet. The file room is a secure room staffed by records management personnel. Case Management ensures that screening information is entered into the Offender Case Management System (OCMS). The OCMS system has limited access, is password protected, and confined to case management staff with user profile access.

Staff who perform risk screening indicated that only certain staff have access to risk screening information. Intake/orientation staff who conduct the intake risk screening reported that only intake/orientation staff and case management staff have access to risk screening information. Likewise, case management staff reported that risk screening information is stored with a locked cabinet in the file room and electronic records are password protected in OCMS.

The agency PREA coordinator reported that risk assessments are confidential and only designated staff have access to this information. The facility compliance manager confirmed that risk screening information stored in the inmate file is secured as required. Additionally, it was reported that OCMS has limited access and only case management staff are allowed access.

Based on the above, the facility has demonstrated compliance with provision 115.41(i).

Recommendations:

- None

Corrective Action:

- 115.41(d), 115.41(f), and 115.41(g): A review of the *PREA Intake Screening* form revealed that it does not consider whether the inmate is perceived to be LGBTI or gender nonconforming. Consideration is specifically required pursuant to provision 115.41(d)(7). Additionally, reliance upon a non-compliant risk screening instrument fails provision 115.41(f) regarding risk screening re-assessments completed within 30-days. Though re-assessments may be completed within 30-days; the risk screening reassessment is guided by a non-compliant risk screening instrument. Furthermore, DRCF may be conducting risk screening reassessments 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. The risk screening instrument itself is non-compliant with Standard 115.41. Again, the risk screening reassessment is guided by a non-compliant risk screening instrument. The agency shall amend the screening instrument to take into consideration the criteria of provision 115.41(d)(7).

Corrective Action Verification:

- The agency provided the *Instructions for PREA Intake Screening Instrument* that were not included with the original audit documentation. These instructions explicitly state, “*The screening official may determine that an inmate is gender non-conforming based on his or her observations.*” The instructions are lengthy, thorough, and require screening staff to make determinations based on observations and information from past incarcerations. Considering this documentation, it has been determined that the facility does conduct risk screening in accordance with standard 115.41.

Standard 115.42: Use of screening information

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

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*)

Instructions for Overall Compliance Determination Narrative

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

Documentation:

- *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*
- *Executive Directive OPS.200.0006 Assessment for Risk of Sexual Victimization and Abusiveness*

Interviews:

- PREA Coordinator
- PREA Compliance Manager
- Intake Staff
- Staff who Perform Screening for Risk of Victimization and Abusiveness
- LGBTI Inmates

Site Review:

- Housing Units

Findings:

115.42(a)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.42(a) verbatim and uses the term "Department" in place of the term "Agency." *Executive Directive OPS.200.0006 Assessment for Risk of Sexual Victimization and Abusiveness* section .05C(1)(a) states, "The PREA Coordinator shall ensure that the following issues are appropriately addressed in procedures for using information obtained during screening required under this directive: (1) Screening information shall be considered: (a) When making decisions related to housing, bed, work, education, and program assignments with the goal of separating inmates who are determined to be at high risk of being sexually victimized from inmates who are determined to be at high risk of being sexually abusive." Collectively, these policies guide facility practice regarding use of risk

screening information.

The PREA compliance manager reported that the process is a collaborative effort between intake/orientation staff who conduct the initial risk screening and case management staff who conduct the risk screening reassessment. Staff who perform risk screening reported that inmates are housed according to their risk screening scores. Those who are at risk of victimization are housed with other inmates who score in the risk of victimization range or those who do not score in either the risk of victimization or risk of abusiveness range. Inmates who score in the risk of abusiveness range are housed with other inmate who score in the risk of abusiveness range or placed in a single cell.

The facility did not provide documentation that demonstrates information from risk screening is 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. Based on the above, the facility has not demonstrated compliance with provision 115.42(a).

115.42(b)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.42(b) verbatim and uses the term “Department” in place of the term “Agency.” The manual states, “The Department shall make individualized determinations about how to ensure the safety of each inmate.” *Executive Directive OPS.200.0006 Assessment for Risk of Sexual Victimization and Abusiveness* section .05C(1)(b) states, “The PREA Coordinator shall ensure that the following issues are appropriately addressed in procedures for using information obtained during screening required under this directive: When making individualized determinations as how to ensure the safety of each inmate.” Collectively, these policies guide facility practice regarding use of risk screening information.”

Staff who perform risk screening reported that inmates are housed according to their risk screening scores. Those who are at risk of victimization are housed with other inmates who are at risk of victimization or those who do not score in either the risk of victimization or risk of abusiveness range. Inmates who score in the risk of abusiveness range are housed with other inmate who score in the risk of abusiveness range or placed in a single cell.

The facility did not provide documentation that demonstrates information from risk screening is utilized to make determinations about how to ensure the safety of each inmate. Based on the above, the facility does not comply with provision 115.42(b).

115.42(c)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.42(c) verbatim and uses the term “Department” in place of the term “Agency.” *Executive Directive OPS.200.0006 Assessment for Risk of Sexual Victimization and Abusiveness* section .05C(1)(i)-(ii) states, “ When deciding to assign a trans gender or intersex inmate to a facility for male or female inmates and in other housing and programming assignments and, on a case by case basis, determining if the placement or assignment: (i) Ensures the inmate's health and safety; and (ii) Presents management or security problems.” Collectively, these policies guide facility practice regarding use of risk screening information.

A review of the *PREA Intake Screening* form revealed that it does affirmatively inquire as to whether an inmate is transgender or intersex. Two transgender inmates were identified based on risk assessment

documentation. One inmate who had recently arrived reported that staff did inquire about the inmate's safety; however, the other inmate reported that staff did not inquire about the inmate's safety. Facility housing documents reflect that both inmates were the only individual currently housed in their respective cell. Inmate responses also reflect that this is the case.

Staff who perform risk screening added that placement decisions for transgender and intersex inmates are handled by the case management team. Based on the above, the facility has demonstrated compliance with provision 115.42(c).

115.42(d)

The Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual restates the language of provision 115.42(d) verbatim. Executive Directive OPS.200.0006 Assessment for Risk of Sexual Victimization and Abusiveness section .05C(2) states, "Placement and programming assignments for each trans gender or intersex inmate shall be re-assessed at least twice each year to review threats to safety experienced by the inmate." Collectively, these policies guide facility practice regarding the use of risk screening information.

The PREA compliance manager reported that placement and programming assignments for transgender and intersex inmates are reviewed every thirty days and annually by the case management team. Housing documents reflect the decision to house both inmates in single occupancy cells for personal safety purposes. A review of classification documents noted that placement and programming assignments are reviewed multiple times per year. One case revealed that placement and programming assignment reviews were completed at least three times during a twelve-month period.

Based on the above, facility has demonstrated compliance with provision 115.42(d).

115.42(e)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.42(e) verbatim. The manual states, "A transgender or intersex inmate's own views with respect to his or her own safety shall be given serious consideration." *Executive Directive OPS.200.0006 Assessment for Risk of Sexual Victimization and Abusiveness* section .05C(3) states, "A transgender or intersex inmate's own views with respect to personal safety shall be seriously considered." Collectively, these policies guide facility practice regarding use of risk screening information.

Two transgender inmates were identified and interviewed. One inmate reported that staff did inquire about the inmate's safety; however, the other inmate reported that staff did not inquire about the inmate's safety. Housing documents reflect that both inmates were housed in a manner that prioritizes the safety of the inmate. Additionally, transgender and intersex inmates can request a personal search exception card which allows the transgender or intersex inmate to be searched by staff of a preferred gender and allows the transgender or intersex inmate to shower separately from other inmates.

The PREA compliance manager indicated that a transgender or intersex inmate's views with respect to his or her own safety are discussed with the case management team. Likewise, staff who perform risk screening confirmed that a transgender or intersex inmate's views are considered. Based on the above, facility has demonstrated compliance with provision 115.42(e).

115.42(f)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.42(f) verbatim. *Executive Directive OPS.200.0006 Assessment for Risk of Sexual Victimization and Abusiveness* section .05C(4) states, “Transgender and intersex inmates shall be given the opportunity to shower separately from other inmates.” Collectively, these policies guide facility practice regarding use of risk screening information.

The PREA compliance manager indicated that facility practice allows transgender or intersex inmates to shower during off times. Likewise, staff who perform risk screening report that transgender or intersex inmates are allowed to shower separately from other inmates. A card is issued to the transgender or intersex inmate that allows the inmate to shower separately from other inmates during specific times. Two transgender inmates were identified and interviewed during the on-site audit. Inmate responses confirmed the ability to shower separately from other inmates.

Based on the above, facility has demonstrated compliance with provision 115.42(f).

115.42(g)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.42(g) verbatim and uses the term “Department” in place of the term “Agency.” *Executive Directive OPS.200.0006 Assessment for Risk of Sexual Victimization and Abusiveness* section .05C(5) states, “Lesbian, gay, bisexual, transgender, or intersex inmates may not be placed in dedicated facilities, units, or wings solely on the basis of such identification or status, 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 inmates.” Collectively, these policies guide facility practice regarding use of risk screening information.

A review of the *PREA Intake Screening* form revealed that it does affirmatively inquire as to whether an inmate is transgender or intersex. Two transgender inmates were identified and interviewed. Neither inmate reported being housed in an area solely designated for lesbian, gay, bisexual, transgender, or intersex inmates. Housing documents indicate that neither inmate was being housed in an area solely designated for lesbian, gay, bisexual, transgender, or intersex inmates. Housing documents reflect that both inmates were the only individual currently housed in their respective cell.

The PREA coordinator was interviewed regarding the housing of lesbian, gay, bisexual, transgender, or intersex inmates in dedicated facilities, unit, or wings solely on the basis of such identification or status, unless such placement is pursuant to a consent decree. PREA Coordinator stated, “This is something we work with within all our facilities. We simply don’t move inmates around for this.” The facility PREA compliance manager indicated that PATX is not subject to a consent decree; therefore, PATX does not house lesbian, gay, bisexual, transgender, or intersex inmates in dedicated units or wings.

The facility does not house lesbian, gay, bisexual, transgender, or intersex inmates in dedicated units or wings. On-site observations confirmed that lesbian, gay, bisexual, transgender, or intersex inmates in dedicated units or wings. Rather the facility houses all inmates based on risk screening results. Based on the above, the facility has demonstrated compliance with provision 115.42(g).

Recommendations:

- None

Corrective Action:

- 115.42(a): The facility did not provide documentation that demonstrates information from the risk screening is 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. The facility shall provide documentation that demonstrates information from the risk screening is 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 pursuant to 115.42(a).
- 115.42(b): The facility did not provide documentation that demonstrates information from the risk screening is utilized to make determinations about how to ensure the safety of each inmate. The facility shall provide documentation that demonstrates information from the risk screening is utilized to make determinations about how to ensure the safety of each inmate pursuant to 115.42(b).

Corrective Action Verification:

- 115.42(a): The facility did provide documentation that demonstrates information from the risk screening is 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. Additional, risk assessment documentation was obtained, and cross referenced with applicable housing, bed, work, education, and programming assignments. All placements were evaluated and determined to be appropriate. Additionally, staff presence, security controls, and monitoring technology assist with the separation of those at high risk of being sexually victimized from those at high risk of being sexually abusive. Based on the above, the facility has demonstrated substantial compliance with provision 115.42(a).
- 115.42(b): The facility did provide documentation that demonstrates information from the risk screening is utilized to make determinations about how to ensure the safety of each inmate. Facility directive PATX.020.0026 section H outlines the procedures staff shall take to ensure the safety of each inmate pursuant to individual screening results. Section H(2) states, "Individualized determinations shall be made to ensure the safety of each inmate; including placing an inmate in special housing (protective custody and/or administrative segregation) if no other means of separation from likely abusers is possible." On site observations noted that accommodations such as single cell occupancy, shakedown preference, shower use are made based on need. Additionally, staff presence, security controls, and monitoring technology assist with the separation of those at high risk of being sexually victimized from those at high risk of being sexually abusive.

Standard 115.43: Protective Custody

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

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*)

Instructions for Overall Compliance Determination Narrative

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

Documentation:

- *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*
- *Division of Corrections – Case Management Manual*
- *Administrative Segregation Investigative Report*
- *Notice of Assignment to Administrative Segregation*

Interviews:

- Warden or Designee

Site Review:

- Segregation Units

Findings:

115.43(a)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.43(a) verbatim and uses the term "Department" in place of the term "Agency." The *Division of Corrections – Case Management Manual* section .18E(1)(a)-(f) states, "Protective custody housing is appropriate only when required for the protection of the inmate. Every effort shall be made by case management staff and the managing official to find suitable alternatives to protective custody housing. Alternatives may include, but are not limited to: (a) Transfer of the inmate to a different housing unit within the facility; (b) A lateral transfer of the inmate to another facility of the same security level; (c) Transfer of the inmate's documented enemy or enemies to another facility; (d) Transfer

of the inmate to another state under the provisions of the Interstate Corrections Compact (ICC); (e) Transfer to MCAC (in exceptional circumstances only); or (f) Assignment to home detention (if eligible).” Collectively, these policies guide facility practice regarding use of protective custody.

A review of investigation documents indicates that inmates at high risk of victimization or who have alleged sexual abuse are not regularly placed in involuntary segregation. The review noted that only one inmate was placed in involuntary segregation pursuant to an allegation of sexual abuse. The inmate was reported to be the victim in a sexual abuse allegation. Investigation documents indicate that a 24-hour review was completed via the *Administrative Segregation Investigative Report* on the day of placement into involuntary segregation. Furthermore, it was also noted that the inmate was released back into general population four days later.

The warden reported that placement of inmates who are at high risk of sexual victimization or who have alleged sexual abuse in involuntary segregation is generally avoided. Prior to such placement, every effort is made to secure alternative housing options. Staff who supervise inmates in segregation confirmed that inmates at high risk of sexual victimization or who have alleged sexual abuse in involuntary segregation are not typically housed in involuntary segregation. Segregation staff reported that if the inmate were extremely vulnerable it’s possible; however, staff did not recall any instance in past 12 months whereby segregation was utilized for this purpose.

Based on the above, the facility has demonstrated compliance with provision 115.43(a).

115.43(b)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.43(b) verbatim. The *Division of Corrections – Case Management Manual* section .18F(1)-(17) states in part, “An inmate assigned to administrative segregation or protective custody shall be subject to the conditions of confinement as follows...” The conditions of confinement outline opportunities that have been limited, and the duration of these limitations. Opportunities for those in protective custody include institutional movement, hygiene, property, out-of-cell activities, access to health care, case management, education, library, legal, visits, religion, food, mail, commissary, and segregation status. The rationale for any limitations would be documented on the *Administrative Segregation Investigative Report* and the *Notice of Assignment to Administrative Segregation*. Collectively, these policies guide facility practice regarding use of protective custody.

Access to programs, privileges, education and work opportunities are restricted by agency policy. The opportunities that have been limited, the duration of these limitations, and reasons for such limitations are noted in the *Administrative Segregation Investigative Report*. Investigation documents indicate that that only one inmate was placed in involuntary segregation pursuant to an allegation of sexual abuse. The inmate was reported to be the victim in a sexual abuse allegation. A review of documentation indicates access to programs, privileges, education and work opportunities were restricted pursuant to policy and documented on the *Administrative Segregation Investigative Report*. Furthermore, the inmate was provided notice via the *Notice of Assignment to Administrative Segregation*.

During the on-site audit there were no inmates at high risk of victimization or who have alleged sexual abuse held in involuntary segregation. The auditor did not discover through interviews or observation any inmates that were at high risk of victimization or who have alleged sexual abuse held in involuntary segregation. Therefore, no inmates held in involuntary segregation due to a high risk of victimization or who have alleged sexual abuse were interviewed.

Staff who supervise inmates in segregation reported that the facility does not typically place inmates at high risk of sexual victimization or who have alleged sexual abuse in involuntary segregation. Segregation staff indicated that if the inmate were extremely vulnerable it's possible but did not recall any instance during the past 12 months whereby segregation was utilized for this purpose.

Based on the above, the facility has demonstrated compliance with provision 115.43(b).

115.43(c)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.43(c) verbatim. The *Division of Corrections – Case Management Manual* section .18E(1) states, “Protective custody housing is appropriate only when required for the protection of the inmate. Every effort shall be made by case management staff and the managing official to find suitable alternatives to protective custody housing.” Collectively, these policies guide facility practice regarding use of protective custody.

Investigation documents indicate that inmates at high risk of victimization or who have alleged sexual abuse are not regularly placed in involuntary segregation. A review of the documentation noted that only one inmate was placed in involuntary segregation pursuant to an allegation of sexual abuse. The inmate was reported to be the victim in a sexual abuse allegation and noted that the inmate was released back into general population four days later.

At the time of the on-site audit there were no inmates at high risk of victimization or who have alleged sexual abuse held in involuntary segregation. The auditor did not discover through interviews or observation any inmates that were at high risk of victimization or who have alleged sexual abuse held in involuntary segregation. Therefore, no inmates held in involuntary segregation due to a high risk of victimization or who have alleged sexual abuse were interviewed.

The warden reported that placement of inmates who are at high risk for sexual victimization or who have alleged sexual abuse in involuntary segregation is generally avoided. Prior to such placement, every effort is made to secure alternative housing options. Staff who supervise inmates in segregation reported that the facility does not typically place inmates at high risk of sexual victimization or who have alleged sexual abuse in involuntary segregation. Segregation staff indicated that if the inmate were extremely vulnerable it's possible but did not recall any instance during the past 12 months whereby segregation was utilized for this purpose.

Based on the above, the facility has demonstrated compliance with provision 115.43(c).

115.43(d)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.43(d) verbatim. The manual states, “(d) If an involuntary segregated housing assignment is made pursuant to paragraph a) of this section, the facility shall clearly document: (1) The basis for the facility’s concern for the inmate’s safety; and (2) The reason why no alternative means of separation can be arranged.” The *Division of Corrections – Case Management Manual* section .18E requires the use of the *Administrative Segregation Investigative Report* and *Notice of Assignment to Administrative Segregation* to document the basis for concern and reasons why no alternative means of separation can be arranged. The *Notice of Assignment to Administrative Segregation* is provided to the inmate and provides the inmate a rationale for placement. Collectively, these policies guide facility practice regarding use of protective custody.

A review of investigation documents noted that during the past 12 months only one inmate at high risk for sexual victimization or who alleged sexual abuse was placed in involuntary segregation. Placement was pursuant to an allegation of sexual abuse. The inmate was reported to be the victim in a sexual abuse allegation. Documentation indicates access to programs, privileges, education and work opportunities were restricted pursuant to policy. The basis for the facility's concern for the inmate's safety and reason why no alternative means of separation were documented on the *Administrative Segregation Investigative Report*.

Based on the above, the facility has demonstrated compliance with provision 115.43(d).

115.43(e)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.43(e) verbatim and uses the term "Department" in place of the term "Agency." The manual states, every 30 days, the facility shall afford each such inmate a review to determine whether there is a continuing need for separation from the general population." The *Division of Corrections – Case Management Manual* section .18B(2)(c) requires a case management team review each case at least once every 30 days. Collectively, these policies guide facility practice regarding use of protective custody.

A review of investigation documents indicates that inmates at high risk of victimization or who have alleged sexual abuse are not regularly placed in involuntary segregation. Documentation indicates that only one inmate was placed in involuntary segregation pursuant to an allegation of sexual abuse. The inmate was reported to be the victim in a sexual abuse allegation. The inmate was reported to be the victim in a sexual abuse allegation. Documents indicate that a 24-hour review was completed on the day of placement into involuntary segregation and that the inmate was released back into general population four days later. Therefore, there are no examples of a 30-day review being conducted.

At the time of the on-site audit there were no inmates at high risk of victimization or who have alleged sexual abuse held in involuntary segregation currently at the facility. Additionally, the auditor did not discover through interviews or observation any inmates that were at high risk of victimization or who have alleged sexual abuse held in involuntary segregation. Therefore, no inmates held in involuntary segregation due to a high risk of victimization or who have alleged sexual abuse were interviewed.

Staff who supervise inmates in segregation reported that the facility does not typically place inmates at high risk of sexual victimization or who have alleged sexual abuse in involuntary segregation. Segregation staff reported that once an inmate is assigned to involuntary segregation, a weekly segregation review meeting will be held.

Based on the above, the facility has demonstrated compliance with provision 115.43(e).

Recommendations:

- None

Corrective Action:

- None

REPORTING

Standard 115.51: Inmate reporting

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

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

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*)

Instructions for Overall Compliance Determination Narrative

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

Documentation:

- *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*
- *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited*
- *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited*

Interviews:

- Random Staff
- Random Inmates
- PREA Compliance Manager
- MCASA representative

Site Review:

- PREA signage throughout the facility

Findings:

115.51(a)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.51(a) verbatim and uses the term "Department" in place of the term "Agency." *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited* and *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* state in section .05E(2), "A complaint of alleged sexual misconduct may be submitted in the following formats: (a) In writing (includes electronic documents); or (b) Verbally." Additionally, section E(4) states, "To effectively reduce actual or implied barriers to filing a complaint, an individual may file a complaint of sexual misconduct with any one or all of the following without regard to chain of command or assignment: (a) Within the Department: (i) An employee; (ii) A supervisor, manager, or shift commander; (iii) The head of a unit; (iv) The Intelligence and Investigative Division (IID); (v) The Inmate Grievance Office." Collectively, these policies guide facility practice regarding reporting.

A review of investigation tracking documents noted that inmates are utilize several ways to report

allegations of sexual abuse, sexual harassment, retaliation, and staff neglect internally. The auditor noted that inmates had reported both verbally and in writing to both security and non-security staff. It was also noted that inmates had reported via the agency hotline.

Inmate interviews indicate that most inmates are aware of the internal reporting mechanisms available. 100% of inmates indicated some way to report allegations of sexual abuse, sexual harassment, retaliation, and staff neglect internally. Reporting directly to staff and the agency hotline were noted as the most popular methods of reporting. Staff interviews noted that staff are aware of the internal reporting mechanisms available to the inmate population. 100% of staff described some way for inmates to report allegations of sexual abuse, sexual harassment, retaliation, and staff neglect internally. Reporting directly to staff, the agency hotline, and in writing were noted as the most popular methods of reporting.

Based on the above, the facility has demonstrated compliance with provision 115.51(a).

115.51(b)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.51(b) verbatim and uses the term “Department” in place of the term “Agency.” *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited* and *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* state in section .05E(4)(b) allows inmates to make a report of sexual abuse or sexual harassment outside the department to the Office of the Attorney General or any other private or public office. Collectively, these policies guide facility practice regarding reporting.

DPSCS has an agreement with the Maryland Coalition Against Sexual Assault (MCASA) to provide advocacy services statewide. An MCASA representative was interviewed in conjunction with this audit. The representative reported that MCASA does have a relationship with the agency and does receive reports of sexual abuse and sexual harassment from inmates as an external reporting entity. Furthermore, the MCASA representative did not know of any reports received in the last 12 months concerning PATX. A review of investigation documents did not reveal any instance whereby an external reporting entity (public or private) was utilized to report an allegation of sexual abuse or sexual harassment.

Only 4% of inmates interviewed were aware of a least one way to report abuse or harassment to a public or private entity or office that is not part of the agency. Most inmates cited the agency hotline and family as the primary methods for reporting abuse or harassment to a public or private entity or office that is not part of the agency. 79% of inmates interviewed were aware that reports of sexual abuse and sexual harassment could be made anonymously. The PREA compliance manager cited staff, mental health, PREA hotline, and write outside as the methods for inmates to report abuse or harassment to a public or private entity or office that is not part of the agency.

MCASA information was observed by the auditor as being posted throughout the facility. The agency does have a relationship with MCASA who has agreed to receive reports (including anonymous reports) of sexual abuse and sexual harassment from inmates. However, inmates were generally unaware of at least one way to report abuse or harassment to a public or private entity or office that is not part of the agency. The facility shall educate inmates about MCASA as the external entity for inmates to make reports of sexual abuse and sexual harassment.

Based on the above, the facility has not demonstrated compliance with provision 115.51(b).

115.51(c)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.51(c) verbatim and uses the term “Department” in place of the term “Agency.” The manual states, “Staff shall accept reports made verbally, in writing, anonymously, and from third parties and shall promptly document any verbal reports.” *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited* and *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* section .05E (1)-(4) requires an employee receiving a complaint of sexual abuse or sexual harassment to immediately report the complaint to a supervisor, manager, shift commander, or head of the unit and subsequently document the report in a written format. Additionally, reports of sexual abuse or sexual harassment may be submitted verbally, in writing (including electronic documents), anonymously, and by third parties. Collectively, these policies guide facility practice regarding reporting.

A review of investigation tracking documents noted that inmates are aware of ways to report allegations of sexual abuse, sexual harassment, retaliation, and staff neglect internally. Investigation documents indicate that inmates have reported both verbally (including hotline and in-person), in writing, and via third parties.

96% of inmates interviewed reported having the ability to report sexual abuse or sexual harassment either verbally, in writing, or via third parties. 79% of inmates interviewed were aware that reports of sexual abuse and sexual harassment could be made anonymously. Reporting directly family and friends were noted as the most popular methods of reporting. 100% of random staff reported that inmates could report sexual abuse or sexual harassment either verbally, in writing, anonymously, and via third parties. 93% of random staff interviewed reported that they would document verbal reports of sexual abuse or sexual harassment and would do so immediately.

Based on the above, the facility has demonstrated compliance with provision 115.51(c).

115.51(d)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.51(d) verbatim and uses the term “Department” in place of the term “Agency.” The manual states, “The Department shall provide a method for staff to privately report sexual abuse and sexual harassment of inmates.” This policy guides facility practice regarding inmate reporting.

100% of random staff reported being knowledgeable in how to privately report sexual abuse or sexual harassment. Many staff cited the PREA hotline and notifying a supervisor as the primary means of making a private report of sexual abuse or sexual harassment.

Based on the above, the facility has demonstrated compliance with provision 115.51(d).

Recommendations:

- None

Corrective Action:

- 115.51(b): The facility shall educate inmates that MCASA serves as the external entity for

inmates to make reports of sexual abuse and sexual harassment.

Corrective Action Verification:

- 115.51(b): The facility has implemented additional education materials regarding MCASA's services. A brochure has been developed that provides information regarding investigations, advocacy, reporting, forensic examinations, emotional support services and other resources available to the inmate population. The brochure also contains contact information to obtain these services or resources. Each inmate will receive a personal copy of this brochure during intake orientation. Upon completion of intake orientation inmates will sign a receipt acknowledging participation in education that includes information regarding MCASA services and receipt of the MCASA brochure. A copy of several signed orientation receipts was obtained, reviewed, and retained for audit purposes. These documents identify the implementation of the additional educational materials. Additionally, the facility also provided photographic evidence of enhanced signage within the institution. The signage serves to enhance the current inmate population's awareness of MCASA reporting services. Based on the above, the facility has demonstrated substantial compliance.

Standard 115.52: Exhaustion of administrative remedies

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

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*)

Instructions for Overall Compliance Determination Narrative

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

Documentation:

- Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual
- COMAR 12.02.28 Administrative Remedy Procedure (ARP)

Interviews:

- Random Staff
- Random Inmates

Site Review:

- PREA signage throughout the facility

Findings:

115.52(a)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.52(a) verbatim and uses the term “Department” in place of the term “Agency.” COMAR 12.02.28 *Administrative Remedy Procedure (ARP)* section .04B(5) states, “An inmate may not use the ARP to resolve a complaint concerning: The following acts by staff or another inmate, which shall be addressed according to Department procedures for addressing complaints under the Prison Rape Elimination Act: (a) Rape; (b) Sexual assault, sexual harassment, sexual abuse; and (c) Other sexual misconduct.” Collectively, these policies guide facility practice regarding exhaustion of administrative remedies.

The agency does not have administrative procedures to address inmate grievances regarding sexual abuse. As stated above, inmates may not use the ARP process to resolve complaints under the PREA. However, pursuant to section .04B(5) complaints under the Prison Rape Elimination Act (i.e. allegations of sexual abuse or sexual harassment) will be investigated. Furthermore, during inmate interviews and conversation with staff it was evident that the ARP form, not the process itself, could be utilized as a mechanism to report sexual abuse or sexual harassment in writing. Therefore, it was determined that if an allegation was submitted using the ARP form the allegation would be investigated pursuant to agency policy. Thus, the ARP form itself offers no access to the agency’s administrative remedies process. However, the ARP form does serve as a method to submit a report of sexual abuse or sexual harassment in writing.

Based on the above, the facility has demonstrated compliance with provision 115.52(a).

Recommendations:

- None

Corrective Action:

- None

Standard 115.53: Inmate access to outside confidential support services

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

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*)

Instructions for Overall Compliance Determination Narrative

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

Documentation:

- *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*
- *Maryland Coalition Against Sexual Assault (MCASA) Agreement*
- *Maryland Coalition Against Sexual Abuse (MCASA) Brochure.*

Interviews:

- MCASA representative
- Random Inmates

Site Review:

- PREA signage throughout the facility

Findings:**115.53(a)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.53(a) verbatim. The manual states, “Services related to sexual abuse by giving inmates mailing addresses and telephone numbers, including toll-free hotline numbers where available, of local, State, or national victim advocacy or rape crisis organizations, and, for persons detained solely for civil immigration purposes, immigrant services agencies. The facility shall enable reasonable communication between inmates and these organizations and agencies, in as confidential a manner as possible.” Collectively, these policies guide facility practice regarding inmate access to outside confidential support services.

DPSCS has an agreement with the Maryland Coalition Against Sexual Assault (MCASA). MCASA is the federally recognized state sexual assault coalition whose core members include the state’s 17 rape crisis and recovery centers. MCASA provides policy advocacy, technical assistance, training, outreach, and prevention. MCASA’s Sexual Assault Legal Institute (SALI) provides direct legal services for victims and survivors of sexual violence statewide. Services provided through MCASA include legal advocacy, legislative advocacy, general advocacy, and emotional support services. Services are provided through MCASA’s network of providers. The agreement specifically states, “MCASA will develop procedures to meet PREA Standard 115.53 in providing access to outside confidential services for Inmates. MCASA will provide technical assistance as needed, including researching and developing policies to address problems and concerns related to provision of confidential emotional support services.”

An MCASA representative was interviewed in conjunction with this audit. The representative reported that MCASA does have a relationship with the agency to provide legal advocacy, legislative advocacy, general advocacy, and emotional support services through MCASA’s network of providers. Specifically, emotional support services are handled through MCASA’s Sexual Assault Legal Institute (SALI).

46% of inmates interviewed reported that services were available. Few inmates were able to specifically identify that emotional support services were available. However, some inmates did report that this information is included in the orientation packet. Telephone was noted as the primary means of contacting emotional support services. Inmate responses coincide with the advocacy and emotional support information that is posted throughout the institution and provided to inmates at orientation. Conversely, 54% of random inmates reported no knowledge of the existence of emotional support services. These responses do not coincide with the advocacy and emotional support information that is posted throughout the institution and provided to inmates at orientation.

Two inmates who reported sexual abuse were interviewed. Neither inmate could articulate that emotional support services are available. Likewise, neither inmate reported being provided emotional support

services information. These responses do not coincide with the advocacy and emotional support information that is posted throughout the institution and provided to inmates at orientation.

Agency policy requires services to be available. An agreement with MCASA is in place to provide emotional support services. This information is provided in the orientation packet; however, interview responses do not support widespread knowledge of emotional support services. The facility shall educate the inmate population about the emotional support services provided through MCASA. Based on the above, the facility has not demonstrated compliance with provision 115.53(a).

115.53(b)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.53(b) verbatim and uses the term “Department” in place of the term “Agency.” The manual states, “(b) Each Department facility shall inform inmates, prior to giving them access, of the extent to which such communications will be monitored and the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws. Collectively, these policies guide facility practice regarding inmate access to outside confidential support services.

Documentation indicates that DPSCS has an agreement with the Maryland Coalition Against Sexual Assault (MCASA) to provide emotional support services. Upon arrival inmates are provided the *Maryland Coalition Against Sexual Abuse (MCASA) Brochure* which informs inmates about services (including confidential emotional support services) provided through MCASA. Specifically, emotional support services are handled through MCASA’s Sexual Assault Legal Institute (SALI). Prior to accessing services inmates are informed to the extent to which their communications will be monitored 73% of the inmates who reported that services are available reported that information shared with these services is private. Many inmates indicated that immediate danger or the commission of a crime would be the only circumstance where information would be shared with the agency. Telephone was noted as the primary means of communicating with these services. This would coincide with the information posted throughout the facility.

Agency policy requires that inmates are informed to 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. Inmates who reported knowledge of services are informed to the extent to which such communications are monitored and the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws. Based on the above, the facility has demonstrated compliance with provision 115.53(b).

115.53(c)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.53(c) verbatim and uses the term “Department” in place of the term “Agency.” The manual states, “The Department shall maintain or attempt to enter into memoranda of understanding or other agreements with community service providers that are able to provide inmates with confidential emotional support services related to sexual abuse. The Department shall maintain copies of agreements or documentation showing attempts to enter into such agreements.” Collectively, these policies guide facility practice regarding inmate access to outside confidential support services.

On June 26, 2016, the agency entered into an agreement with the Maryland Coalition Against Sexual Assault (MCASA). MCASA is a federally recognized state sexual assault coalition whose core members include the state’s 17 rape crisis and recovery centers. MCASA provides policy advocacy, technical assistance, training, outreach, and prevention. Specific services provided to DPSCS through MCASA

include legal advocacy, legislative advocacy, general advocacy, and emotional support services. MCASA's Sexual Assault Legal Institute (SALI) provides direct legal services for victims and survivors of sexual violence statewide and outside emotional support services to inmates. A copy of the agreement was obtained, reviewed, and retained for audit purposes.

The agency does have an agreement in place pursuant to provision 115.53(c). The obtained a copy of the agreement for audit purposes. Based on the above, the facility has demonstrated compliance with provision 115.53(c).

Recommendations:

- None

Corrective Action:

- 115.53(a): The facility shall educate the inmate population about the emotional support services provided through MCASA.

Corrective Action Verification:

- 115.53(b): The facility has implemented additional education materials regarding MCASA's services. A brochure has been developed that provides information regarding investigations, advocacy, reporting, forensic examinations, emotional support and other resources available to the inmate population. The brochure also contains contact information to obtain these services or resources. Each inmate will receive a personal copy of this brochure during intake orientation. Upon completion inmates will sign a receipt acknowledging participation in the orientation that includes information regarding MCASA services and receipt of the MCASA brochure. Copies of several signed orientation receipts were obtained, reviewed, and retained for audit purposes. Additionally, the facility also provided photographic evidence of enhanced signage within the institution. The signage serves to enhance the current inmate population's awareness of MCASA services. Based on the above, the facility has demonstrated substantial compliance with provision 115.53(b).

Standard 115.54: Third-party reporting

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

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*)

Instructions for Overall Compliance Determination Narrative

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

Documentation:

- *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*
- *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited*
- *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited*

Interviews:

- MCASA representative
- Random Inmates

Site Review:

- PREA signage throughout the facility

Findings:

115.54(a)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.54(a) verbatim and uses the term "Department" in place of the term "Agency." The manual states, "The Department shall establish a method to receive third-party reports of sexual abuse and sexual harassment and shall distribute publicly information on how to report sexual abuse and sexual harassment on behalf of an inmate." *Executive Directive OPS.050.0001 Sexual Misconduct - Prohibited* and *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* section E1(c) states, "A complaint of alleged inmate on inmate sexual conduct may be submitted by the following individuals: A "third party" or other individual who has knowledge of the alleged inmate on inmate sexual conduct." Collectively, these policies guide facility practice regarding third-party reporting.

The agency's website contains phone numbers, email addresses, and the agency PREA Coordinator's contact information are published and available to the public. The auditor noted that the information is easily accessible to the general public via a web search.

Based on the above, the facility has demonstrated compliance with provision 115.54(a).

Recommendations:

- None

Corrective Action:

- None

OFFICIAL RESPONSE FOLLOWING AN INMATE REPORT

Standard 115.61: Staff and agency reporting duties

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

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*)

Instructions for Overall Compliance Determination Narrative

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

Documentation:

- *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*
- *Executive Directive IIU.110.0011 Investigating Sex Related Offenses*
- *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited*
- *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited*
- *Executive Directive OPS.020.0003 Reporting Serious Incidents*
- *Child Abuse and Neglect, Maryland Family Law § 5-704 (2013)*
- *Maryland Police and Correctional Training Commission Lesson Plan – Prison Rape Elimination Act (Correctional In-Service Training Program)*
- *Investigation documentation*

Interviews:

- *Random Staff*
- *Warden or Designee*

Site Review:

- *None*

Findings:

115.61(a)

The Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual

restates the language of provision 115.61(a) verbatim and uses the term “Department” in place of the term “Agency.” The manual states, “The Department shall require all staff to report immediately and according to agency policy any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in a facility, whether or not it is part the Department; retaliation against inmates or staff who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.”

Executive Directive IIU.110.0011 Investigating Sex Related Offenses section .05A states, “An employee who observes or has knowledge of an incident, regardless of the source of the information, involving a sex related offense that occurs on Department property or in a Department vehicle shall notify the Internal Investigative Unit (IIU) of the incident as soon as possible after the occurrence or the employee first becomes aware of the incident.”

Executive Directive OPS.050.0001 Sexual Misconduct - Prohibited and *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* section E5 requires employees who receive a complaint of or otherwise have knowledge of alleged sexual misconduct/sexual conduct shall immediately report the complaint to a supervisor, manager, shift commander, or head of the unit followed by the appropriate written format used to document the incident. Section E6(a) requires the supervisor, manager, shift commander, or head of a unit at a facility other than the facility where the alleged sexual misconduct/sexual conduct occurred notify the managing official responsible for the facility receiving. If the incident occurred at another department facility the managing official responsible for the facility receiving the complaint immediately, but not later than 72 hours of being notified of the incident, shall notify the managing official of the facility where the incident occurred. If the incident occurred at a facility that is not under the authority of the department the facility head or agency head responsible for the facility where the incident occurred and the IIU regardless of the jurisdiction where the incident occurred. It should be noted that pursuant to agency policy “sexual misconduct” and “sexual conduct” are umbrella terms used to encompass sexual abuse, sexual harassment, and retaliation and other related behavior.

Executive Directive OPS.020.0003 Reporting Serious Incidents requires, employees to report any incident in which injury, serious enough to warrant medical attention, occurs involving an inmate, employee, or visitor on the grounds of the facility or creates an imminent threat the security of the facility, or to the safety of inmates, employees, or visitors on the grounds of the facility. Collectively, these policies guide facility practice regarding staff and agency reporting duties.

100% of staff report that the agency does require staff to report any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in a facility. Staff also confirmed a responsibility to report any retaliation against inmates or staff for reporting sexual abuse or sexual harassment. Staff also reported a duty to report any staff neglect that may have contributed to an incident of sexual abuse or sexual harassment. The facility did have one allegation of sexual abuse reported by staff, against another staff member, investigation documents demonstrate that staff are knowledgeable in how to report and do report behavior consistent with provision 115.61(a).

The agency does have policies in place that require 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 the department. retaliation against inmates or staff who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.” Interviews indicate that staff are aware of agency policy and their responsibility to report any knowledge of behavior noted in provision 115.61(a). Based on the above, the facility has demonstrated compliance with provision 115.61(a).

115.61(b)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.61(b) verbatim and uses the term “Department” in place of the term “Agency.” The manual states, “Apart from reporting to designated supervisors or officials, staff shall not reveal any information related to a sexual abuse report to anyone other than to the extent necessary, as specified in the Department policy, to make treatment, investigation, and other security and management decisions.” *Executive Directive OPS.050.0001 Sexual Misconduct - Prohibited* and *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* section E5 requires confidentiality with regard to information concerning a complaint of alleged sexual misconduct/sexual conduct and any information may only be available to individuals who have an established role in the reporting, processing, investigating, and immediate and continued care of the victims. Collectively, these policies guide facility practice regarding staff and agency reporting duties.

87% of random staff indicated an immediate duty to report information related to sexual abuse to a supervisor. Random staff did not necessarily articulate the confidentiality requirement; however, question #5 of the random staff interview protocol is vague and does not lend to the disclosure of the confidentiality requirement.

Information regarding the confidential treatment of information related to reports of sexual abuse is contained in slide #25, #28, and #29 of the staff training presentation. Confidentiality is addressed in question #5 and question #9 of the training test. A review of annual staff training records was performed to confirm staff completed training in accordance with provision 115.31(c). Training records were obtained, reviewed, and retained for audit purposes. 15 training records were randomly selected by the auditor for review. 100% of the training records examined noted that staff had completed PREA training in accordance with *COMAR 12.10.01.16 Correctional Training Commission* requirements.

The agency does have policies in place that require staff to keep information related to an incident of sexual abuse confidential. Interviews indicate that staff are aware of agency policy regarding confidentiality. Based on the above, the facility has demonstrated compliance with provision 115.61(b).

115.61(c)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.61(c) verbatim and uses the term “Department” in place of the term “Agency.” The manual states, “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.” *Executive Directive OPS.050.0001 Sexual Misconduct - Prohibited* and *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* section .04B(6) “Employee” states, “Means an individual assigned to or employed by the Department in a full-time, part-time, temporary, or contractual position regardless of job title or classification. (b) Includes: (i) A contractor; (ii) An intern.” Collectively, these policies guide facility practice regarding staff and agency reporting duties.

Medical and mental health staff are required to report sexual abuse pursuant to *Executive Directive IIU.110.0011 Investigating Sex Related Offenses*; *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited*; *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* and *Executive Directive OPS.020.0003 Reporting Serious Incidents*. Medical and mental health employees reported having received training regarding their duty to report incidents of sexual abuse and sexual harassment. Medical and mental health staff indicated that reports of sexual abuse and sexual harassment would be immediately reported to the major, assistant warden, or PREA coordinator.

The agency does have a policy in place that requires medical and mental health employees to report incidents of sexual abuse. Interviews confirm that medical and mental health staff are aware of this duty. Based on the above, the facility has demonstrated compliance with provision 115.61(c).

115.61(d)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.61(d) verbatim and uses the term “Department” in place of the term “Agency.” The manual states, “If the alleged victim is under the age of 18 or considered a vulnerable adult under a State or local vulnerable persons statute, the Department shall report the allegation to the designated State or local services agency under applicable mandatory reporting laws.”

Child Abuse and Neglect, Maryland Family Law § 5-704 (2013) states, “Reporting of abuse or neglect -- By health practitioner, police officer, educator, or human service worker (a) In general. -- Notwithstanding any other provision of law, including any law on privileged communications, each health practitioner, police officer, educator, or human service worker, acting in a professional capacity in this State: (1) who has reason to believe that a child has been subjected to abuse or neglect, shall notify the local department or the appropriate law enforcement agency; and (2) if acting as a staff member of a hospital, public health agency, child care institution, juvenile detention center, school, or similar institution, shall immediately notify and give all information required by this section to the head of the institution or the designee of the head.” Collectively, these documents guide facility practice regarding staff and agency reporting duties.

Maryland does have mandatory reporting laws for physical and sexual abuse of children and vulnerable adults. *Child Abuse and Neglect, Maryland Family Law § 5-704 (2013)* pertains to health practitioners, educators or human service workers, and police officers specifically related to reporting physical and sexual abuse of children and vulnerable adults. PATX houses only male inmates 18 or older. Pre-audit and onsite discussions indicated that youthful inmates are not housed at the facility. On-site observations did not indicate the presence of youthful offenders. The agency PREA coordinator stated, “We’ve still never had an allegation. This population is handled very delicately. One of the investigators would investigate the situation and it is reported to social services by law.”

Based on the above, the facility has demonstrated compliance with provision 115.61(d).

115.61(e)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.61(e) verbatim and uses the term “Department” in place of the term “Agency.” The manual states, “The facility shall report all allegations of sexual abuse and sexual harassment, including third-party and anonymous reports, to the facility’s designated investigators.” *Directive IIU.110.0011 Investigating Sex Related Offenses* section .05A, “An employee who observes or has knowledge of an incident, regardless of the source of the information, involving a sex related offense that occurs on Department property or in a Department vehicle shall notify the Internal Investigative Unit (IIU) of the incident as soon as possible after the occurrence or the employee first becomes aware of the incident. Section .05B states, “A sex related offense may involve an: (1) Employee with another employee; (2) Employee and an inmate; (3) Employee and an inmate’s personal contact; (4) Employee and a visitor; (5) Inmate and an employee; (6) Inmate and another inmate; or (7) Inmate and visitor.” Collectively, these policies guide facility practice regarding staff and agency reporting duties.

Investigation documents suggest that all allegations of sexual abuse and sexual harassment are forwarded to IIU for investigation. Upon receiving an allegation IIU will determine whether the

investigation will be conducted by a local investigator or by an IIU investigator. The warden reports that all allegations are forwarded to IIU as required by policy. A review of investigation documents noted that reports of sexual abuse and harassment, including third party reports, were indeed forwarded to IIU for investigation. Based on the above, the facility has demonstrated compliance with provision 115.61(e).

Recommendations:

- None

Corrective Action:

- None

Standard 115.62: Agency protection duties

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

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*)

Instructions for Overall Compliance Determination Narrative

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

Documentation:

- *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*
- *Maryland Police and Correctional Training Commission Lesson Plan – Prison Rape Elimination Act (Correctional In-Service Training Program)*
- *Maryland Police and Correctional Training Commission Lesson Plan – Prison Rape Elimination Act (Correctional Entrance Level Training Program)*

Interviews:

- Agency head designee
- Warden's designee
- Random Staff

Site Review:

- None

Findings:

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.62(a) verbatim and uses the term “Department” in place of the term “Agency.” The manual states, “When the Department learns that an inmate is subject to a substantial risk of imminent sexual abuse, it shall take immediate action to protect the inmate.” This information is also covered in the *Maryland Police and Correctional Training Commission Lesson Plan – Prison Rape Elimination Act (Correctional In-Service Training Program)* and *Maryland Police and the Correctional Training Commission Lesson Plan – Prison Rape Elimination Act (Correctional Entrance Level Training Program)*. Collectively, these policies guide facility practice regarding agency protection duties.

Interviews of the agency head designee, warden, and random staff were conducted. 100% of those interviewed indicated that immediate action is required. The agency head designee reports that a variety of measures could be taken to protect a victim and these measures would be implemented on a case by case basis. The type of measures employed would be dependent on an assessment of the situation. If the threat arises from another inmate; housing changes, interdepartmental transfers, and segregation are all possibilities. If the threat arises from staff, staff can be moved. Efforts would be made to ensure the least amount of impact on the victim. As a last resort, placement in involuntary protective custody is possible.

The warden reported that protection of the at-risk inmate is priority. An investigation into the threat would be conducted. If the potential threat is known, that individual would be removed from the facility. Random staff reported that if an inmate was at risk of imminent sexual abuse, immediate action to protect the inmate would be taken. Most staff reported that a supervisor would be contacted. Additionally, many random staff reported that the inmate at risk would be removed from the area and placed in a different housing unit. None of the staff interviewed reported that involuntary segregation would be utilized.

A review of the investigation documents indicated zero instances where the facility determined an inmate was at substantial imminent risk of sexual abuse. However, the agency does train staff to take immediate action. Interviews suggest that if an imminent threat were discovered staff would respond appropriately. Based on the above, the facility has demonstrated compliance with provision 115.62(a).

Recommendations:

- None

Corrective Action:

- None

Standard 115.63: Reporting to other confinement facilities

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

115.63 (a)

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

115.63 (b)

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

115.63 (c)

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

115.63 (d)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

Documentation:

- Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual
- Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited
- Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited
- Investigation documentation

Interviews:

- Agency Head Designee
- Warden's Designee

Site Review:

- None

Findings:

115.63(a)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.63(a) verbatim and uses the term “Department” in place of the term “Agency.” The manual states, “Upon receiving an allegation that an inmate was sexually abused while confined at another facility, the head of the facility that received the allegation shall notify the head of the facility or appropriate office of the Department where the alleged abuse occurred.” *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited* and *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* section .05E(6) require the managing official responsible for a facility receiving a complaint of sexual misconduct or sexual conduct, if the incident occurred at another Department facility, to notify the managing official of the facility where the incident occurred. Likewise, the managing official responsible for a facility receiving a complaint of sexual misconduct or sexual conduct, that occurred at a facility that is not under the authority of the Department, to notify the managing official of the facility where the incident occurred. Collectively, these policies guide facility practice regarding reporting to other confinement facilities.

Investigation documents indicate that PATX received one allegation of sexual abuse that occurred at another facility. A review of the investigation documents noted that a security supervisor and not the facility head had notified IIU of the allegation. IIU has the authority to conduct criminal investigations within the agency; therefore, IIU is the appropriate office to contact upon receiving an allegation that an inmate was sexually abused at another facility. However, provision 115.63(a) explicitly states, “the head of the facility that received the allegation shall notify the head of the facility or appropriate office of the agency where the alleged abuse occurred.” Investigation documents revealed, in this instance, the facility head did not make the required notifications.

The agency shall ensure that upon receiving an allegation that an inmate was sexually abused while confined at another facility, the head of the facility that received the allegation shall notify the head of the facility or appropriate office of the agency where the alleged abuse occurred. Based on the above, the facility has not demonstrated compliance with provision 115.63(a).

115.63(b)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.63(b) verbatim. The manual states, “Such notification shall be provided as soon as possible, but no later than 72 hours after receiving the allegation.” *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited* and *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* section .05E(6) require the managing official responsible for a facility receiving a complaint of sexual misconduct or sexual conduct, if the incident occurred at another Department facility, to immediately but not later than 72 hours, notify the managing official of the facility where the incident occurred. Likewise, the managing official responsible for a facility receiving a complaint of sexual misconduct or sexual conduct, that occurred at a facility that is not under the authority

of the Department, to immediately but not later than 72 hours, notify the managing official of the facility where the incident occurred. Collectively, these policies guide facility practice regarding reporting to other confinement facilities.

A review of investigation documents noted that PATX received one allegation concerning a report of sexual abuse that occurred at another facility. A review of the investigation documents noted that a security supervisor and not the facility head notified IIU within the 72-hour requirement stated in provision 115.63(b). However, provision 115.63(a) explicitly states, “the head of the facility that received the allegation shall notify the head of the facility or appropriate office of the agency where the alleged abuse occurred.” Investigation documents revealed, in this instance, the facility head did not make the required notifications.

The agency shall ensure that upon receiving an allegation that an inmate was sexually abused while confined at another facility, the head of the facility that received the allegation shall notify the head of the facility or appropriate office of the agency where the alleged abuse occurred as soon as possible, but no later than 72 hours after receiving the allegation. Based on the above, the facility has not demonstrated compliance with provision 115.63(b).

115.63(c)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.63(c) verbatim and uses the term “Department” in place of the term “Agency.” The manual states, “The Department shall document that it has provided such notification.” *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited* and *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* section .05E(6)(b) states, “Record the notifications made in accordance with §.05E(6)(a) of this directive.” Collectively, these policies guide facility practice regarding reporting to other confinement facilities. Investigation documentation indicates that PATX received one allegation concerning a report of sexual abuse that occurred at another facility. Investigation documents revealed, in this instance, a security supervisor and not the facility head made the notification. However, the referral to IIU was documented in the investigation tracking spreadsheet.

Provision 115.63(c) merely requires the notification be documented and does not state who shall document such notification. A review of investigation documents revealed that such notification was documented in the investigation tracking spreadsheet. Based on the above, the facility has demonstrated compliance with provision 115.63(c).

115.63(d)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.63(d) verbatim and uses the term “Department” in place of the term “Agency.” The manual states, “The facility head or the Department office that receives such notification shall ensure that the allegation is investigated in accordance with these standards.” *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited* and *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* section .05E(7) states, “An IID representative notified under §.05E(6) of this directive and the facility where the alleged inmate on inmate sexual conduct occurred is a Department facility, shall follow up with the managing official responsible for the Department facility where the alleged inmate on inmate sexual conduct occurred to ensure that the complaint is addressed according to requirements established under this directive.” Collectively, these policies guide facility practice regarding reporting to other confinement facilities.

The agency head designee reported that another agency, or a facility within another agency, could refer allegations of sexual abuse or sexual harassment to the secretary's office, the agency PREA coordinator, and/or the facility head. If received, these allegations would be forwarded to the warden of the facility where the alleged sexual abuse or sexual harassment occurred. The warden reported that any allegation would be reported to IIU, assigned a serious incident report number, and investigated. The warden did not recall any recent reports of sexual abuse that occurred at another facility.

A review of the investigation documents noted one allegation concerning a report of sexual abuse that occurred at another facility. Investigation documents noted that IIU received the allegation and subsequently conducted an investigation. Given that IIU has the authority to conduct criminal investigations; IIU is the appropriate office to contact upon receiving an allegation that an inmate was sexually abused while confined at another facility. IIU conducted the investigation and completion of this investigation was noted on the investigation tracking spreadsheet; therefore, both the facility head and agency office that received the notification ensured that the allegation was investigated.

Based on the above, the facility has demonstrated compliance with provision 115.63(d).

Recommendations:

- None

Corrective Action:

- 115.63(a): The agency shall ensure that upon receiving an allegation that an inmate was sexually abused while confined at another facility, the head of the facility that received the allegation shall notify the head of the facility or appropriate office of the agency where the alleged abuse occurred.
- 115.63(b): The agency shall ensure that upon receiving an allegation that an inmate was sexually abused while confined at another facility, the head of the facility that received the allegation shall notify the head of the facility or appropriate office of the agency where the alleged abuse occurred as soon as possible, but no later than 72 hours after receiving the allegation.

Corrective Action Verification:

- 115.63(a)&(b): The facility provided documentation indicating the creation of a process for routing these types of allegations. A form has been created to ensure consistent routing and documentation of these types of allegations. Upon receipt staff are to contact the appropriate supervisor who will subsequently inform the facility head who will complete the form and send to the appropriate facility head or office where the alleged incident occurred. The implementation of this process was followed by a written direction to all staff stating, "Please be advised that at ANY time staff become aware of an allegation that an inmate was sexually abused while confined to another facility, that information MUST be reported directly to a shift supervisor. These allegations shall be taken seriously and reported IMMEDIATELY to the shift supervisor. The shift supervisor must notify their Warden who will subsequently notify the warden of the institution or appropriate office where the alleged sexual abuse occurred. This notification shall occur within 72 hours of receiving the allegation." This direction was read during shift roll call for ten consecutive days to ensure all staff coverage. The auditor has not been advised of any recent reports involving abuse while confined at another facility. In lieu of any recent reports, the above serves to demonstrate substantial compliance with provisions 115.63(a) and 115.63(b).

Standard 115.64: Staff first responder duties

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

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*)

Instructions for Overall Compliance Determination Narrative

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

Documentation:

- *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*
- *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited*
- *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited*
- *Executive Directive OPS.020.0003 Reporting Serious Incidents*

Interviews:

- Security staff and non-security staff first responders
- Inmates who reported a sexual abuse
- Random sample of staff

Site Review:

- None

Findings:**115.64(a)**

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.64(a) verbatim. *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited* and *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* section .05D(2)(a)(i) requires employees to stop the incident and separate the alleged victim and abuser. Section .05D(2)(b)(i)-(iii) states, “If the circumstances are such that there is evidence to preserve: (i) Preserve the scene of the incident; (ii) Ensure the victim is advised not to do anything that would contaminate or destroy physical evidence such as, bathing, brushing teeth, changing clothes, urinating, defecating, drinking, or eating; and (iii) Ensure the alleged abuser does not do anything that would contaminate or destroy physical evidence such as, bathing, brushing teeth, changing clothes, urinating, defecating, drinking, or eating.” Collectively, these policies guide facility practice regarding staff first responder duties.”

The facility reported one instance whereby staff r acted in accordance with the agency’s first responder protocol. A review of this investigation noted that staff reported an allegation of sexual abuse. The investigation report noted that staff immediately separated the alleged victim from the alleged abuser, the crime scene was maintained until IIU investigators arrived, and the alleged victim was immediately taken to health care. Medical staff declined to refer the inmate for a forensic medical exam based on a denial by the inmate that anything had occurred and the nature (touching over clothing) of the allegation. Inmates who reported sexual abuse reported allegations that had happened in the past. Hence no action, outside of referring the allegation for investigation, was required or taken by staff who received the allegation.

All security staff are trained to act as first responders. One security member was randomly selected by the auditor for an interview. Staff reported that the alleged victim and abuser would be immediately separated, the crime scene would be protected, the victim would be requested to not take any actions that would destroy physical evidence. Additionally, steps would be taken to ensure that the alleged abuser did not take any actions that would destroy evidence. Staff reported that medical and mental health care would be immediately notified of the situation. Likewise, during random security staff

interviews it was noted that most security staff would respond in accordance with provision 115.64(a).

Investigation documents and interviews indicate that staff do respond in accordance with the standard. Based on the above, the facility has demonstrated compliance with provision 115.64(a).

115.64(b)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.64(b) verbatim and uses the term “Department” in place of the term “Agency.” The manual states, “If the first staff responder is not a security staff member, the responder shall be required to request that the alleged victim not take any actions that could destroy physical evidence, and then notify security staff.”

Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited and *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* section .05D(3) requires not security staff responding to an incident of sexual misconduct or sexual conduct to act in accordance with section .05D2(a) and (b). Sections .05D(2)(a)(i) requires employees to stop the incident and separate the alleged victim and abuser. Section .05D(2)(b)(i)-(iii) states, “If the circumstances are such that there is evidence to preserve: (i) Preserve the scene of the incident; (ii) Ensure the victim is advised not to do anything that would contaminate or destroy physical evidence such as, bathing, brushing teeth, changing clothes, urinating, defecating, drinking, or eating; and (iii) Ensure the alleged abuser does not do anything that would contaminate or destroy physical evidence such as, bathing, brushing teeth, changing clothes, urinating, defecating, drinking, or eating.” Collectively, these policies guide facility practice regarding staff first responder duties.”

The facility did not report any instances where non-security staff acted as a first responder during an incident of sexual abuse. Nonetheless, non-security staff reported being well informed of their responsibilities and duties as a first responder. Non-security staff frequently answered they would immediately notify security staff and request the victim not take any actions that could destroy physical evidence.

Based on the above, the facility has demonstrated compliance with provision 115.64(b).

Recommendations:

- None

Corrective Action:

- None

Standard 115.65: Coordinated response

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

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*)

Instructions for Overall Compliance Determination Narrative

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

Documentation:

- *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*
- *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited*
- *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited*

Interviews:

- Warden

Site Review:

- None

Findings:

115.65(a)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.65(a) verbatim. The manual states, "The facility shall develop a written institutional plan to coordinate actions taken in response to an incident of sexual abuse, among staff first responders, medical and mental health practitioners, investigators, and facility leadership." *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited* and *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* section .05F were also submitted for review. Collectively, these documents guide practice regarding the facility's coordinated response.

The facility did not provide a written institutional plan to coordinate actions taken in response to an incident of sexual abuse, among staff first responders, medical and mental health practitioners,

investigators, and facility leadership.

The warden reported that the institutional plan is written in policy, discussed in meetings and discussed during in-service training. However, the facility failed to provide this document.

Based on the above, the facility did not demonstrated compliance with provision 115.65(a).

Recommendations:

- None

Corrective Action:

- 115.65(a): The facility shall submit a written institutional plan to coordinate actions taken in response to an incident of sexual abuse, among staff first responders, medical and mental health practitioners, investigators, and facility leadership.

Corrective Action Verification:

- 115.65(a): The facility did submit a written institutional plan to coordinate actions taken in response to an incident of sexual abuse, among staff first responders, medical and mental health practitioners, investigators, and facility leadership. The plan was submitted in the form of *Patuxent Institution Facility Directive PATX.020.0026*. The plan itself consists of procedures to follow when responding to an incident of sexual abuse. The plan directs staff first responders, medical and mental health personnel, investigative staff, and facility leadership on the steps to be taken to ensure the appropriate response to an incident of sexual abuse. The plan includes ensuring the safety of the alleged inmate, advocacy, investigation referrals and access to emergency medical and mental health services including forensic examinations. The plan also covers staff reporting and documentation requirements, follow up medical and mental health treatment, inmate notifications, disciplinary sanctions and sexual abuse incident review requirements. Based on the above, the facility has demonstrated compliance with provision 115.65(a).

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

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

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*)

Instructions for Overall Compliance Determination Narrative

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

Documentation:

- *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*
- *State Personnel and Pensions Article, §3-302, Annotated Code of Maryland*

Interviews:

- Agency head designee

Site Review:

- None

Findings:

115.66(a)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.66(a) verbatim and uses the term "Department" in place of the term "Agency." The manual states, "Neither the Department nor any other governmental entity responsible for collective bargaining on the Department's behalf shall enter into or renew any collective bargaining agreement or other agreement that limits the Department'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." Therefore, Maryland law requires that management retain all basic rights. *State Personnel and Pensions Article, §3-302, Annotated Code of Maryland* regarding management's rights as provided by law was submitted for review. Items 1 through 8 of this document specifically state that the Agency has the ability to manage their staff in the event that an issue were to occur related to many different issues, of which (3) states, hire, direct, supervise, and assign employees, and (4) states, promote, demote, discipline, discharge, retain, and lay off employees. Collectively, these policies guide agency practice regarding the preservation of ability to protect inmates from contact with abusers.

The agency head designee reported that Maryland is a management rights state and state law prohibits such restrictions. Interview responses by the agency head designee suggests there are no limitations to the agency's ability to remove employee sexual abusers from contact with inmates. A review of the audit documentation confirmed there are no restrictions or limitations to the agency's ability to remove staff sexual abusers from contact with inmates. Therefore, DPSCS does have discretion regarding the assignment, hiring and firing of staff. Based on the above, the facility has demonstrated compliance with provision 115.66(a).

115.66(b)

The auditor is not required to audit this provision.

Recommendations:

- None

Corrective Action:

- None

Standard 115.67: Agency protection against retaliation

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

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 inmates 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*)

Instructions for Overall Compliance Determination Narrative

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

Documentation:

- *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*
- *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited*
- *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited*

Interviews:

- Agency head designee
- Warden designee
- Designated staff member charge with monitoring retaliation

Site Review:

- None

Findings:

115.67(a)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.67(a) verbatim and uses the term "Department" in place of the term "Agency." The manual states, "The Department shall establish a policy to protect all inmates and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other inmates or staff, and shall designate which staff members or departments are charged with monitoring retaliation." Agency policy *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited* categorizes "retaliation" as a form of sexual misconduct that is prohibited. Likewise, *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* categorizes "retaliation" as a form of sexual conduct that is prohibited. The two policies are similar in content. However, sexual misconduct generally means staff behavior or acts of a sexual nature directed towards inmates whereas sexual conduct speaks of behavior or acts of a derogatory or offensive sexual nature from one inmate directed towards another inmate.

The agency does have an established policy in place to protect inmates and staff from retaliation. Based on the above, the facility has demonstrated compliance with provision 115.67(a).

115.67(b)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.67(b) verbatim and uses the term “Department” in place of the term “Agency.” Agency policy *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited* and *OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* section .05B establish measures to be utilized (i.e. housing changes and work assignment changes) to protect inmates and staff from retaliation. Collectively, these policies guide facility practice regarding an official response following an inmate report.

The agency head designee reported that every institution has staff assigned to monitor retaliation and those who express fear of retaliation would be monitored for at least 90 days. The agency head designee reported that multiple measures could be utilized to protect inmates and staff from retaliation. The measures employed would depend on the situation. Such measures could include inmate housing changes, and interdepartmental transfers for both inmates and staff. As a last resort, inmates could be placed in restrictive housing. However, this measure is utilized as a last resort and every attempt will be made to minimize the impact on the inmate or staff member who is being retaliated against.

The warden reported that retaliation monitoring is completed by the investigative captain. Based on this response, the facility does have a designated staff member who monitors retaliation. Retaliation monitoring documentation confirms this to be the case. In one instance it was noted that the warden had completed the retaliation monitoring documentation.

The designated staff member charged with monitoring retaliation reported they will meet with the inmate personally within the first two weeks and then every 30 days for the duration of the 90-day retaliation monitoring period. It was reported that monitoring will continue beyond 90 days if there was a continuing need. Specific, protective measures that could be utilized were noted as staff housing changes, mental health referrals, and if requested by the inmate a housing change could be made.

Two inmates who reported sexual abuse were interviewed. One inmate reported that staff had provided adequate protection from retaliation. The other inmate was noted as having reported the allegation directly to the auditor. This allegation was subsequently reported to facility administration pursuant to the inmate’s request on the last day of the audit.

Based on the above, the facility has demonstrated compliance with provision 115.67(b).

115.67(c)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.67(c) verbatim and uses the term “Department” in place of the term “Agency.” Agency policy *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited* and *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* establish agency policy regarding retaliation monitoring. Agency policy requires that staff and inmates who report or participate in the investigation or resolution of, or who is a victim of alleged sexual misconduct or sexual conduct is monitored for a minimum of 90 days. Per policy, retaliation may include Discipline, Changes in work or program assignments; Transfers or placements; or Denial of privileges or services. Collectively, these policies guide facility practice regarding an official response following an inmate report.

The warden reported that any retaliation, staff or inmate, would be handled through an investigation followed by the disciplinary process if any retaliation were discovered. The warden indicated that staff assignment or inmate moves, and changes are monitored. Staff who monitor retaliation reported that misconducts, phone calls, housing changes, program changes and cameras are monitored to detect

possible retaliation. Other personnel will be contacted to discuss any issues.

Investigation documents revealed several allegations of sexual abuse. However, none of the documentation provided demonstrates that retaliation monitoring occurred. The facility shall provide documentation that demonstrates retaliation monitoring is conducted pursuant to provision 115.67(c). Based on the above, the facility has not demonstrated compliance with provision 115.67(c).

115.67(d)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.67(d) verbatim and uses the term “Department” in place of the term “Agency.” The manual states, “In the case of inmates, such monitoring shall also include periodic status checks.”

Investigation documents revealed several allegations of sexual abuse. However, none of the documentation provided demonstrates that periodic status checks are conducted in conjunction with retaliation monitoring. The facility shall provide documentation that demonstrates periodic status checks are conducted in conjunction with retaliation monitoring pursuant to provision 115.67(d). Based on the above, the facility has not demonstrated compliance with provision 115.67(d).

115.67(e)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.67(e) verbatim and uses the term “Department” in place of the term “Agency.” The manual states, “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 retaliation.” Agency policy *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited* and *OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* section .05B(3) indicates that any individual (staff or inmate) reporting, participating in the investigation or resolution of, or who is a victim of alleged sexual misconduct or sexual conduct is monitored for a minimum of 90 days from the date the incident was reported to detect actual, or feared, retaliation and if retaliation is identified or feared take action to stop the actual or feared retaliation.” Collectively, these policies guide facility practice regarding an official response following an inmate report.

The agency head designee reported that every institution has staff assigned to monitor retaliation and those who express fear of retaliation would be monitored for at least 90 days. Likewise, the agency head designee also reported that multiple measures could be utilized to protect inmates and staff from retaliation. The measures employed would depend on the situation. Such measures could include inmate housing changes, interdepartmental transfers for both inmates and staff, and emotional support services. Every attempt will be made to minimize the impact on inmates or staff who are being retaliated against. As a last resort, inmates could be placed in restrictive housing. However, it was reported that this measure is utilized as a last resort.

The warden reported that retaliation monitoring is completed by the investigative captain. Despite the audit materials lacking documentation that demonstrates retaliation monitoring is conducted, none of the investigation documents noted any other individual who expressed fear of retaliation. Based on the above, the facility has demonstrated compliance with provision 115.67(e).

115.67(f)

The auditor is not required to audit this provision.

Recommendations:

- None

Corrective Action:

- 115.67(c): Retaliation monitoring is required for 90 days following a report of sexual abuse. The facility shall provide documentation that demonstrates retaliation monitoring is conducted pursuant to provision 115.67(c).
- 115.67(d): None of the documentation provided demonstrates that periodic status checks are conducted in conjunction with retaliation monitoring. The facility shall provide documentation that demonstrates periodic status checks are conducted in conjunction with retaliation monitoring pursuant to provision 115.67(d).

Corrective Action Verification:

- The facility provided documentation demonstrating that retaliation monitoring is conducted. A review of this documentation indicates that retaliation monitoring is conducted by a designated person. Additionally, the documentation demonstrates that retaliation monitoring continues for a minimum of 90 days following a report of sexual abuse. Retaliation monitoring is documented on the *Retaliation Monitoring* form and includes periodic status checks. Upon completion the form is reviewed and signed by the facility PREA Compliance Manager. Based on the above, the facility has demonstrated compliance with provision 115.67(c) and 115.67(d).

Standard 115.68: Post-allegation protective custody

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

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*)

Instructions for Overall Compliance Determination Narrative

The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's

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

Documentation:

- *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*
- *Division of Corrections – Case Management Manual DOC.100.0002*

Interviews:

- Agency head designee
- Warden designee's
- Designated staff member charge with monitoring retaliation

Site Review:

- None

Findings:

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* restates the language of provision 115.68(a) verbatim. *Case Management Manual DOC.100.0002*, Section 18 "Special Confinement Housing" Section E(1) indicates that Protective custody housing is appropriate only when required for the protection of the inmate. Every effort shall be made by case management staff and the managing official to find suitable alternatives to protective custody housing. Alternatives may include, but are not limited to: (a) Transfer of the inmate to a different housing unit within the facility; (b) A lateral transfer of the inmate to another facility of the same security level; (c) Transfer of the inmate's documented enemy or enemies to another facility; (d) Transfer of the inmate to another state under the provisions of the Interstate Corrections Compact (ICC); (e) Transfer to MCAC (in exceptional circumstances only; or (f) Assignment to home detention (if eligible). If protective custody housing is utilized or recommended by the case management team the supporting rationale shall be documented on a Case Management Assignment Sheet. The inmate shall be initially reviewed upon arrival at the protective custody facility. Collectively, these policies guide facility practice regarding an official response following an inmate report.

Investigation documents indicate that inmates at high risk of victimization or who have alleged sexual abuse are not regularly placed in involuntary segregation. A review of the documentation noted only one instance where an inmate was placed in involuntary segregation during the audit period. The inmate was reported to be the victim in a sexual abuse allegation and placement was pursuant to an allegation of sexual abuse. Documents indicate that a 24-hour review was completed via the *Administrative Segregation Investigative Report* on the day of placement in involuntary segregation. Documentation also noted that the inmate was released back into general population four days later.

Per the warden, the use of involuntary segregation for inmates who have alleged to have suffered sexual abuse is generally prohibited. Every effort is made to secure alternative housing options. Segregation staff reported that the facility does not typically place inmates at high risk of sexual victimization or who have alleged sexual abuse in involuntary segregation. Segregation also reported that if the inmate were extremely vulnerable it's possible but could not recall any instance during the

past 12 months whereby segregation was utilized for this purpose.

At the time of the on-site audit there were no inmates who alleged to have suffered sexual abuse held in segregated housing. Additionally, the auditor did not discover any inmates who alleged sexual abuse who were subsequently placed in involuntary segregation. Therefore, no inmates held in involuntary segregation due to a high risk of victimization or who have alleged sexual abuse were interviewed.

Per agency policy, inmates who have allegedly suffered sexual abuse would be treated in accordance with Standard 115.43. Based on the above, the facility has demonstrated compliance with provision 115.68(a).

Recommendations:

- None

Corrective Action:

- None

INVESTIGATIONS

Standard 115.71: Criminal and administrative agency investigations

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

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 (I)

- 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*)

Instructions for Overall Compliance Determination Narrative

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

Documentation:

- Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual
- Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited
- Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited
- Executive Directive IIU.110.0011 Investigating Sex Related Offenses
- Investigation documentation

Interviews:

- Warden's designee
- PREA coordinator
- PREA compliance Manager
- Investigative staff

Site Review:

- None

Findings:

115.71(a)

restates the language of provision 115.71(a) verbatim and uses the term “Department” in place of the term “Agency.” The manual states, “When the Department conducts its own investigations into allegations of sexual abuse and sexual harassment, it shall do so promptly, thoroughly, and objectively for all allegations, including third-party and anonymous reports”

Agency policy *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited* and *OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* section .05G(1)(a)-(f) states in part, “Investigating, Documenting, and Resolving a Complaint. An IID investigator, or an investigator designated by the IID, shall conduct a prompt, thorough and objective investigation of every complaint of alleged sexual misconduct and inmate on inmate sexual conduct according to applicable statutory, regulatory, case law, contract, Department procedures, or other reasonably accepted standards related to: (a) Collecting and preserving evidence; (b) Interviewing victims, witnesses, and suspected perpetrators; (c) Conducting and using polygraph examinations; (d) Identifying suspects; (e) Preserving an individual’s personal dignity and legal rights; and (f) Maintaining confidentiality of the investigation.”

Executive Directive IIU.110.0011 Investigating Sex Related Offenses .03A states, “The Department shall promptly, thoroughly, and objectively investigate each allegation of employee or inmate misconduct involving a sex related offense according to a uniform protocol based on recognized investigative practices that maximize evidence collection to support effective administrative dispositions and, if appropriate, criminal prosecution of the identified perpetrator.” Collectively, these policies guide facility practice regarding criminal and administrative agency investigations.

Investigation documents were obtained, reviewed, and retained for audit purposes. A review of investigation documents indicate that a total of 16 sexual abuse and sexual harassment investigations were completed during the 12-month audit period. Six of these investigations were randomly selected by the auditor for review. The documentation demonstrates that investigations are initiated shortly after an incident is reported. This was verified by the dates and times observed on witness statements and other documents contained within the investigation files. Investigation documents also demonstrate that thorough and objective investigations are conducted. This was verified via supporting documents such as the investigation narrative, medical documentation, and witness statements. Investigation documents noted several reporting methods utilized by the inmate population to report allegations of sexual abuse and sexual harassment. Investigation documents noted that inmates had reported via third party sources and the agency hotline. No anonymous reports were received.

Two investigative staff were interviewed. Investigative staff reported that investigations are typically initiated immediately upon receipt of a report. However, one investigator reported that it could possibly take as long as seven days indicating that more urgent matters (i.e. forensic exams) would take priority over other less urgent matters. Investigators also report that anonymous and third-party reports of sexual abuse and sexual harassment would be processed in the very same manner as any other report of sexual abuse and sexual harassment.

Agency policy exists guides the conduct of investigations. Facility investigation documents indicate that investigations are conducted timely, thoroughly, and objectively. Investigator responses indicate that investigations are handled in accordance with provision 115.71(a). Based on the above, the facility has demonstrated compliance with provision 115.71(a).

115.71(b)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* reiterates the language of provision 115.71(b) verbatim. The manual states, “In addition to the general

training provided to all employees pursuant to 115.31, the Department shall ensure that, to the extent the Department itself conducts sexual abuse investigations, its investigators have received training in conducting such investigations in confinement settings.” *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited* and *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* section .05G(2) states in part, “To the extent possible, but in every case where the allegation of alleged sexual misconduct involves sexual abuse, the investigator assigned to investigate the allegation shall have received specialized training related to conducting sexual abuse investigations.” *Executive Directive IIU.110.0011 Investigating Sex Related Offenses* section .03B states, “Department personnel assigned to conduct an investigation of alleged employee or inmate misconduct involving a sex related offense shall be trained in techniques related to conducting investigations of sex related offenses in the correctional setting.” Collectively, these policies guide facility practice regarding criminal and administrative agency investigations.

The IIU has jurisdiction over both administrative and criminal investigations; therefore, all allegations of sexual abuse and sexual harassment are forwarded to the IIU. IIU investigators are generally all detectives and former police officers with experience in conducting investigations prior to being hired as IIU investigators. IIU investigators are required to meet specific training standards in order to maintain law enforcement certification in the State of Maryland. A review of training records noted that all PATX investigations were completed by an IIU investigator who completed specialized training.

Investigators reported having received specialized training in the conduct of sexual abuse and sexual harassment investigations. One IIU detective reported that sexual abuse investigation training is covered during PREA in-service training and at the police academy. Training records for IIU based detectives were reviewed and indicate that all IIU detectives have been trained. The local PATX investigator was also interviewed. The local PATX investigator reported that field investigator training was completed 14 years ago. However, training records did not include records for the local investigator. The facility shall provide specialized investigator training records for the local PATX investigator.

A review of investigation documents noted that 16 sexual abuse and sexual harassment investigations were completed during the 12-month audit period. Six of these investigations were randomly selected by the auditor for review. All six investigations were verified to have been completed by IIU detectives who have completed specialized investigator training. However, the auditor was unable to verify, through training records, that the local PATX based investigators have completed specialized investigator training.

Some investigations are completed by IIU detectives who have received specialized training in the conduct of sexual abuse and sexual harassment investigations. However, it is unclear if the local PATX investigator has received specialized training. Investigator training records are insufficient to demonstrate substantial compliance with the standard. The facility was unable to demonstrate that investigations conducted locally (i.e. at PATX) are being conducted by an investigator who has received specialized training in the conduct of sexual harassment and sexual abuse investigations. Based on the above, the facility has not demonstrated compliance with provision 115.71(b).

115.71(c)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* reiterates the language of provision 115.71(c). The manual states, “Investigators shall gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data; shall interview alleged victims, suspected perpetrators, and witnesses; and shall review prior complaints and reports of sexual abuse involving the suspected

perpetrator.”

Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited and *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* section .05G(1)(a)-(f) states, “An IID investigator, or an investigator designated by the IID, shall conduct a prompt, thorough and objective investigation of every complaint of alleged inmate on inmate sexual conduct according to applicable statutory, regulatory, case law, contract, Department or agency procedures, or other reasonably accepted standards related to: (a) Collecting and preserving evidence; (b) Interviewing victims, witnesses, and suspected perpetrators; (c) Conducting and using polygraph examinations; (d) Identifying suspects; (e) Preserving an individual’s personal dignity and legal rights; and (f) Maintaining confidentiality of the investigation.” *Executive Directive IIU.110.0011 Investigating Sex Related Offenses* section .05D addresses investigator responsibilities including interviews and the collection and preservation of evidence. Collectively, these policies guide facility practice regarding criminal and administrative agency investigations.

Investigation documents were obtained, reviewed, and retained for audit purposes. 16 sexual abuse and sexual harassment investigations were completed during the 12-month audit period. Six of these investigations were randomly selected by the auditor for review. Investigation documents demonstrate that investigators do “gather and preserve direct and circumstantial evidence.” The documentation contained such information as electronic case management information, medical documentation, physical evidence such as letters, photographs, and victim and witness interview statements. One alleged victim was sent to Mercy Hospital for a forensic exam; however, the inmate refused the forensic exam at the hospital. Therefore, the facility did not report any cases where a forensic exam was conducted in order to collect DNA evidence.

The local PATX investigator reported that the area would be secured for evidence control purposes and contacting IIU is the first step towards initiating an investigation. IIU has jurisdiction over both administrative and criminal investigations; therefore, all allegations of sexual abuse and sexual harassment are forwarded to the IIU. IIU would immediately initiate evidence collection procedures. The alleged victim would be requested, and alleged abuser would be ordered not to do anything that would destroy physical evidence. If necessary, the alleged victim would be sent to a local hospital for a forensic exam. Interviews of the alleged victim, alleged abuser, and any witnesses would be conducted. Cameras will be reviewed to obtain any evidence regarding a claim of sexual abuse and sexual harassment. The IIU investigator reported upon receipt of a sexual abuse or sexual harassment allegation regardless of its origin, the information would be reviewed by a supervisor who will subsequently assign an IIU investigator. The assigned IIU investigator will make contact within seven days. The IIU investigator will subsequently gather all evidence, witness statements, search the crime scene, develop reports, and refer the allegation to the local prosecutor for possible criminal charges.

Policy is in place regarding the collection and preservation of evidence. Likewise, there is also policy regarding the collection of physical and DNA evidence. The facility did not report any cases where a forensic exam was conducted to collect DNA evidence. However, investigation documents do demonstrate that evidence is collected in accordance with the standard. Based on the above, the facility has demonstrated compliance with provision 115.71(c).

115.71(d)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* reiterates the language of provision 115.71(d). The manual states, “When the quality of evidence appears to support criminal prosecution, the Department shall conduct compelled interviews only after consulting

with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution.” *Executive Directive IIU.110.0011 Investigating Sex Related Offenses* section .05H(6) states, “If appropriate, work with the prosecutor to develop the case for criminal prosecution.” Collectively, these policies guide facility practice regarding criminal and administrative agency investigations.

16 sexual abuse and sexual harassment investigations were completed during the 12-month audit period. Six of these investigations were randomly selected by the auditor for review. Investigation documents were obtained, reviewed, and retained for audit purposes. None of the investigation documents noted that compelled interviews were utilized to gather information from either the alleged victim, alleged perpetrator, or any witnesses. The IIU investigator reported that they do consult with the local prosecutor before conducting compelled interviews.

Investigation documents do not indicate the use of compelled interviews. Furthermore, interviews indicate that IIU would contact the local prosecutor prior to conducting any compelled interviews. Based on the above, the facility has demonstrated compliance with provision 115.71(d).

115.71(e)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* reiterates the language of provision 115.71(e). The manual states, “The credibility of an alleged victim, suspect, or witness shall be assessed on an individual basis and shall not be determined by the person’s status as inmate or staff. No agency shall require an inmate who alleges sexual abuse to submit to a polygraph examination or other truth telling device as a condition for proceeding with the investigation of such an allegation.”

Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited and *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* section .05G(6) prohibits victims of alleged sexual misconduct or sexual conduct from being compelled to submit to a polygraph or other truth-telling examination as a condition for proceeding with an investigation of alleged sexual misconduct. *Executive Directive IIU.110.0011 Investigating Sex Related Offenses* section .05E states, “(1) Credibility of a victim, witness, or suspect shall be determined on an individual basis, regardless of the individual’s status, for example employee or inmate. (2) A victim may not be required to take a polygraph or other truth telling test to determine to proceed with an investigation of an incident involving a sex related offense.” Collectively, these policies guide facility practice regarding criminal and administrative agency investigations.

Investigation documents were obtained, reviewed, and retained for audit purposes. 16 sexual abuse and sexual harassment investigations were completed during the 12-month audit period. Six of these investigations were randomly selected by the auditor for review. A review of the investigation documents did not indicate the use of a polygraph, other truth-telling device or examination. Credibility assessments appear to be appropriate given the information contained within the investigation report. Investigators were able to articulate the main ideas of the standard in that the credibility of an alleged victim, suspect, or witness is considered on an individual basis. Additionally, neither investigator indicated a circumstance where an inmate would be required to participate in a polygraph examination.

Based on the above, the facility has demonstrated compliance with 115.71(e).

115.71(f)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*

states the language of provision 115.71(f) verbatim. The manual states, "Criminal investigations shall be documented in a written report that contains a thorough description of physical, testimonial, and documentary evidence and attaches copies of all documentary evidence where feasible." *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited* and *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* section .05G(4) requires agency investigators to thoroughly document all aspects of the investigation in a written report so as to best support subsequent administrative action and, if appropriate, referral for criminal prosecution.

Executive Directive IIU.110.0011 Investigating Sex Related Offenses section .05D(6) states, "Conduct post-incident investigative actions to complete a comprehensive investigation of the incident that intends to: (a) Identify the perpetrator; (b) Determine if employee action or lack of action contributed to the occurrence; and (c) Collect and preserve evidence to effectively support an administrative and, if appropriate, criminal proceedings" with regard to 115.71(f)1. Additionally, Section .05D(7) states, "Document all aspects of the investigation in a comprehensive investigative report that: (a) Thoroughly describes, physical, testimonial, and documentary evidence; (b) Explains the reasoning behind credibility assessments; (c) Includes facts and findings; and (d) When appropriate, has related documents attached; and (e) Is maintained according to an established retention schedule, which requires that the report is maintained as long as the employee is employed by the Department or the inmate is under the authority of the Department plus five years." Collectively, these policies guide facility practice regarding criminal and administrative agency investigations.

16 sexual abuse and sexual harassment investigations were completed during the 12-month audit period. Six of these investigations were randomly selected by the auditor for review. Investigation documents were obtained, reviewed, and retained for audit purposes. Investigations are documented in written reports that include a description of the physical and testimonial evidence, investigative facts and findings, the rationale behind credibility assessments and efforts to determine if staff negligence contributed to the abuse. Upon review, the agency does document investigations in accordance with the standard.

The IIU investigator reported that all aspects of an allegation are considered and documented during the investigation. This includes whether or not staff actions or inactions were the possible cause of an incident. Investigation reports include descriptions of any physical evidence and testimonial evidence relied upon when making a final determination as to the merits of the investigation. Based on the above, the facility has demonstrated compliance with 115.71(f).

115.71(g)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.71(g) verbatim. The manual states, "Criminal investigations shall be documented in a written report that contains a thorough description of physical, testimonial, and documentary evidence and attaches copies of all documentary evidence where feasible." *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited* and *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* section .05G(4) requires agency investigators to thoroughly document all aspects of the investigation in a written report to best support subsequent administrative action and, if appropriate, referral for criminal prosecution.

Executive Directive IIU.110.0011 Investigating Sex Related Offenses section .05D(6) states, "Conduct post-incident investigative actions to complete a comprehensive investigation of the incident that intends to: (a) Identify the perpetrator; (b) Determine if employee action or lack of action contributed to the occurrence; and (c) Collect and preserve evidence to effectively support an administrative and, if

appropriate, criminal proceedings” with regard to 115.71(g). Additionally, Section .05D(7) states, “Document all aspects of the investigation in a comprehensive investigative report that: (a) Thoroughly describes, physical, testimonial, and documentary evidence; (b) Explains the reasoning behind credibility assessments; (c) Includes facts and findings; and (d) When appropriate, has related documents attached; and (e) Is maintained according to an established retention schedule, which requires that the report is maintained as long as the employee is employed by the Department or the inmate is under the authority of the Department plus five years.” Collectively, these policies guide facility practice regarding criminal and administrative agency investigations.

16 sexual abuse and sexual harassment investigations were completed during the 12-month audit period. Six of these investigations were randomly selected by the auditor for review. Investigation documents were obtained, reviewed, and retained for audit purposes. All criminal investigations are conducted by IIU. IIU is the investigative body, within the agency, with the authority to conduct criminal investigations. A review of the investigation reports completed by IIU noted complete descriptions of any physical evidence (when applicable) as well as testimonial evidence relied upon when making a final determination as to the merits of the investigation.

The IIU investigator reported that all aspects of an allegation are documented in the investigation report. Investigation reports include a description of all evidence gathered in the conduct of the investigation. This would include evidence gathered at the scene, during forensic examinations, and gathered during interviews. None of the investigations were substantiated, nor did any of the investigations reach prosecution. The agency’s IIU division has the authority to conduct criminal investigations, and documents these investigations in accordance with the standard. Based on the above, the facility has demonstrated compliance with 115.71(g).

115.71(h)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.71(h) verbatim. The manual states, “Substantiated allegations of conduct that appears to be criminal shall be referred for prosecution.” *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited* and *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* section .05G(4)(a) states, “Thoroughly document all aspects of the investigation in a written report so as to best support subsequent administrative action and, if appropriate, referral for criminal prosecution,” with regard to referral for prosecution. *Executive Directive IIU.110.0011 Investigating Sex Related Offenses* section .05H(6) states, “If appropriate, work with the prosecutor to develop the case for criminal prosecution.” Collectively, these policies guide facility practice regarding criminal and administrative agency investigations.

16 sexual abuse and sexual harassment investigations were completed during the 12-month audit period. Six of these investigations were randomly selected by the auditor for review. Investigation documents were obtained, reviewed, and retained for audit purposes. None of the investigations were substantiated; therefore, none the investigations resulted in prosecution.

During interviews with investigative staff it was reported that investigations containing sufficient evidence to merit prosecution are referred to the office of the state’s attorney for prosecution. Both the IIU investigator and the local facility investigator reported that IIU is the entity that refers investigations to the state’s attorney office.

Agency policy requires the referral of substantiated allegations of conduct that appears to be criminal for prosecution. None of the investigations were substantiated; therefore, none of the investigations

resulted in referral for prosecution. Interviews also verified that none the investigations resulted in referral for prosecution. Based on the above, the facility has demonstrated substantial compliance with provision 115.71(h).

115.71(i)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.71(i) verbatim and uses the term “Department” in place of the term “Agency.” The manual states, “The Department shall retain all written reports referenced in paragraphs (f) and (g) of this section for as long as the alleged abuser is incarcerated or employed by the Department, plus five years.”

Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited and *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* section .05G(4)(e) requires the report of investigation to be filed and maintained in accordance with an established retention schedule. The agency retention schedule requires the report of investigation to be held for as long as the alleged perpetrator is incarcerated or employed by the DPSCS, plus an additional five years. Collectively, these policies guide facility practice regarding criminal and administrative agency investigations.

16 sexual abuse and sexual harassment investigations were completed during the 12-month audit period. Six of these investigations were randomly selected by the auditor for review. Investigation documents were obtained, reviewed, and retained for audit purposes. However, this is likely due to the recentness of the investigations reviewed. Additionally, some of the investigation files reviewed had been in retention since 2018 at the time of the auditor request. Furthermore, as mentioned above agency policy does require retention in accordance with provision 115.71(i).

Agency retention policy is compliant with provision 115.71(i). Documentation demonstrates files are being tracked and retained in accordance with agency policy. Based on the above, the facility has demonstrated substantial compliance with provision 115.71(i).

115.71(j)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.71(j) verbatim and uses the term “Department” in place of the term “Agency.” The manual states, “The departure of the alleged abuser or victim from the employment or control of the facility or the Department shall not provide a basis for terminating an investigation.”

Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited and *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* section .05G(5) sets the requirement for the continuation of an investigation. Per policy, the departure of an employee or inmate alleged to have committed sexual misconduct is not a basis for terminating an investigation of alleged sexual misconduct or alleged inmate on inmate sexual conduct. Likewise, the departure of the victim of sexual misconduct from the from the Department is not a basis for terminating an investigation of alleged sexual misconduct or alleged inmate on inmate sexual conduct. Collectively, these policies guide facility practice regarding criminal and administrative agency investigations.

16 sexual abuse and sexual harassment investigations were completed during the 12-month audit period. Six of these investigations were randomly selected by the auditor for review. Investigation documentation was obtained, reviewed, and retained for audit purposes. One investigation indicated that an employee (alleged abuser) was placed on ban order by the facility for alleged sexual abuse.

Documentation demonstrates that despite the departure of the alleged abuser from the control of the facility, the investigation continued until completion.

Investigator interviews indicate that, once initiated, investigations will proceed until completion. Agency policy requires that investigations continue regardless of the alleged abuser's employment status. Documentation demonstrates that investigations are being tracked until completion. Based on the above, the facility has demonstrated substantial compliance with provision 115.71(j).

115.71(k)

The auditor is not required to audit this provision.

115.71(l)

The agency conducts its own criminal and administrative investigations into allegations of sexual abuse and sexual harassment. Therefore, provision 115.71(l) is not applicable to the extent that no outside agency conducts administrative or criminal sexual abuse investigations.

16 sexual abuse and sexual harassment investigations were completed during the 12-month audit period. Six of these investigations were randomly selected by the auditor for review. Investigation documentation was obtained, reviewed, and retained for audit purposes. A review of the investigation files and interviews confirm that the agency does conduct administrative and criminal investigations.

Based on the above, the facility has demonstrated compliance with provision 115.71(l).

Recommendations:

- None

Corrective Action:

- 115.71(b) Investigator training records are insufficient to demonstrate compliance. The facility shall submit training records for the PATX investigator. Training documentation shall demonstrate that the PATX investigator has completed specialized training in the conduct of sexual abuse and sexual harassment investigations.

Corrective Action Verification:

- The facility provided *Patuxent Institution Directive PATX.020.0026*. Section .03J states, "All allegations of staff sexual misconduct or inmate on inmate sexual abuse investigations or any PREA related criminal and administrative investigations will be conducted by the Internal Investigative Division (IID)." Thus, all sexual abuse investigations are referred to IIU detectives who have received specialized training pursuant to the standard. A review of documentation provided, evidence gathered during the interview process, and facility investigation records it's evident that facility-based investigators do not conduct sexual abuse investigations. All sexual abuse investigations are conducted by IIU detectives who have received specialized investigations. Based the above, the facility has demonstrated compliance with provisions 115.71(b).

Standard 115.72: Evidentiary standard for administrative investigations

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

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*)

Instructions for Overall Compliance Determination Narrative

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

Documentation:

- Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*
- Executive Directive IIU.110.0011 Investigating Sex Related Offenses*
- Investigation documentation

Interviews:

- Investigative staff

Site Review:

- None

115.72(a)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.72(a) verbatim and uses the term "Department" in place of the term "Agency." The manual states, "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." *Executive Directive IIU.110.0011 Investigating Sex Related Offenses* section .05H(2)

states, in part, "Upon concluding an investigation involving an inmate as a victim of a sex related offense, the investigative detective shall make their determination regarding substantiating the allegation based upon a preponderance of the evidence." Collectively, these policies guide facility practice regarding criminal and administrative agency investigations.

Investigation documents were obtained, reviewed, and retained for audit purposes. 16 sexual abuse and sexual harassment investigations were completed during the 12-month audit period. Six of these investigations were randomly selected by the auditor for review. A review of these documents suggests 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. A review of investigation documents revealed one instance where a staff member was alleged to have sexually abused an inmate. The victim refused to cooperate with the investigatory process; therefore, the agency was unable to substantiate an allegation of sexual abuse. However, the staff member was ultimately terminated from employment, for other violations of policy, based on the evidence collected during the investigation.

Investigative staff reported that "preponderance of evidence" is the standard of evidence necessary to substantiate an allegation of sexual abuse or sexual harassment. A review of the investigation documents supports this statement. Based on the above, the facility has demonstrated substantial compliance with provision 115.72(a).

Recommendations:

- None

Corrective Action:

- None

Standard 115.73: Reporting to inmates

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

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 inmate, unless the agency has determined that the allegation is unfounded, or unless the inmate

has been released from custody, does the agency subsequently inform the inmate 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 inmate, unless the agency has determined that the allegation is unfounded, or unless the inmate has been released from custody, does the agency subsequently inform the inmate 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 inmate, unless the agency has determined that the allegation is unfounded, or unless the inmate has been released from custody, does the agency subsequently inform the inmate 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 inmate, unless the agency has determined that the allegation is unfounded, or unless the inmate has been released from custody, does the agency subsequently inform the inmate 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*)

Instructions for Overall Compliance Determination Narrative

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

Documentation:

- *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*
- *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited*
- *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited*
- *Executive Directive IIU.110.0011 Investigating Sex Related Offenses*
- Investigation documentation

Interviews:

- Warden's designee
- Investigative staff

Site Review:

- None

115.73(a)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.73(a) verbatim and uses the term "Department" in place of the term "Agency." The manual states, "Following an investigation into an inmate's allegation that he or she suffered sexual abuse in the Department facility, the Department shall inform the inmate as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded."

Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited section .05H(1) states, "When notified by an investigator under §.05G(4)(c) of this directive, if the allegation was sexual abuse, the head of the unit responsible for the victim inmate shall ensure that the victim inmate is notified of the investigator's determination that the allegation was substantiated, unsubstantiated, or unfounded."

Likewise, *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* section .05H(1) regarding victim notification states, "When notified by an investigator under §.05G(4)(c) of this directive, if the allegation of inmate on inmate sexual conduct included sexual abuse, the head of the unit responsible for the victim inmate shall ensure that the victim inmate is notified of the investigator's determination that the allegation was substantiated, unsubstantiated, or unfounded."

Executive Directive IIU.110.0011 Investigating Sex Related Offenses section .05H requires the inmate victim to be notified when the investigation is determined to be substantiated, unsubstantiated, or unfounded. Collectively, these policies guide facility practice regarding reporting to inmates.

Investigation documents were obtained, reviewed, and retained for audit purposes. 16 sexual abuse and sexual harassment investigations were completed during the 12-month audit period. Six of these

investigations were randomly selected by the auditor for review. A review of these documents noted that notification of investigation findings is provided on the *Prison Rape Elimination Act Investigation Inmate Notification* form. The form itself is a single sheet of paper containing a summary of the investigation. The form includes an area for the inmate victim or witness signature as well as the investigator's signature followed by a date of notification. Five of these investigations originated from an allegation of sexual abuse. However, only one notification form was provided with the investigation documents.

The IIU investigator reported that inmates are provided notification regarding the status of a sexual abuse allegation. The only exception would be if the inmate has been released from custody. The local investigator reported that inmates are provided notification both verbally and in writing via the *Prison Rape Elimination Act Investigation Inmate Notification* form. Two inmates who reported sexual abuse were interviewed. Only one inmate reported that the agency is required to notify inmates regarding the outcome of an investigation.

Agency policy requires inmates to be notified as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded. Interviews indicate that agency policy is followed regarding inmate notifications. The agency provides notification via the *Prison Rape Elimination Act Investigation Inmate Notification* form. However, the documentation does not support that inmates are informed as to whether the allegations has been determined to be substantiated, unsubstantiated, or unfounded. Based on the above, the facility has not demonstrated compliance with provision 115.73(a).

115.73(b)

The agency conducts both criminal and administrative investigations into allegations of sexual abuse and sexual harassment. Therefore, provision 115.73(b) does not apply insofar as the agency conducts both administrative and criminal investigations of sexual abuse and sexual harassment allegations. Based on the above, the facility has demonstrated compliance with provision 115.73(b).

115.73(c)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.73(c) verbatim and uses the term "Department" in place of the term "Agency." The manual states, "Following an inmate's allegation that a staff member has committed sexual abuse against the inmate, the Department shall subsequently inform the inmate unless the Department has determined that the allegation is unfounded whenever: (1) The staff member is no longer posted within the inmate's unit; (2) The staff member is no longer employed at the facility; (3) The Department learns that the staff member has been indicted on a charge related to sexual abuse within the facility; or (4) The Department learns that the staff member has been convicted on a charge related to sexual abuse within the facility."

Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited section .05H(2) states, "Except when an allegation of sexual abuse is determined to be unfounded, the head of the unit responsible for the victim inmate shall, for as long as the inmate is under the authority of the Department, ensure that the inmate is notified of the following situations concerning the employee who victimized or is alleged to have victimized the inmate: (a) The employee is no longer assigned to the inmate's housing unit; (b) The employee is no longer assigned at the inmate's facility; (c) If aware, the employee is criminally charged for an offense related to the sexual abuse that occurred within the facility; and (d) If aware, the employee is convicted on a charge related to the sexual abuse that occurred within the facility." Collectively, these policies guide facility practice regarding reporting to inmates.

Investigation documents were obtained, reviewed, and retained for audit purposes. 16 sexual abuse and sexual harassment investigations were completed during the 12-month audit period. Six of these investigations were randomly selected by the auditor for review. Five investigations originated from an allegation of sexual abuse. Upon review it was noted that only one investigation would have required notification pursuant to provision 115.73(c). However, notification documents were not contained within the investigation documents. All other investigations were determined to be unfounded and did not require notification.

The facility had only one investigation that required notification pursuant to provision 115.73(c). The notification documents were not provided. The documentation is insufficient to demonstrate compliance. Based on the above, the facility has not demonstrated compliance with provision 115.73(c).

115.73(d)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.73(d) verbatim and uses the term “Department” in place of the term “Agency.” The manual states, “Following an inmate’s allegation that he or she has been sexually abused by another inmate, the Department shall subsequently inform the alleged victim whenever: (1) The Department learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility; or (2) The Department learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility.”

Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited section .05H(1) regarding victim notification states, “Except when an allegation of inmate on inmate sexual conduct is determined to be unfounded, the head of the unit responsible for the victim inmate shall, for as long as the victim inmate is under the authority of the Department, ensure that the victim inmate is notified of the following situations concerning the inmate who sexually abused or is alleged to have sexually abused the victim inmate: (a) If aware, the accused inmate is in any way charged with a crime related to the sexual abuse that occurred within the facility; and (b) If aware, the accused inmate is convicted on a charge related to the sexual abuse that occurred within the facility.” Collectively, these policies guide facility practice regarding reporting to inmates.

Investigation documents were obtained, reviewed, and retained for audit purposes. 16 sexual abuse and sexual harassment investigations were completed during the 12-month audit period. Six of these investigations were randomly selected by the auditor for review. A review of these documents noted two allegations of alleged inmate on inmate sexual abuse. However, both allegations were determined to be unfounded and notification was not required.

Based on the above, the facility has demonstrated compliance with provision 115.73(d).

115.73(e)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.73(e) verbatim. The manual states, “All such notifications or attempted notifications shall be documented.” *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited* and *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* section .05H(3) regarding victim notification states, “A record of a notification made under §§.05H(1) and (2) of this directive shall be maintained in the victim inmate’s base file and include the following information: (a) Case number; (b) Content of the notification; (c) Date of the notification; (d) Location

where the notification was made; (e) Printed name and signature of the employee making the notification; and (f) The inmate's signature acknowledging notification or, if the inmate refuses to sign for the notification, "Refused to Sign" and the employee's signature."

Executive Directive IIU.110.0011 Investigating Sex Related Offenses section .05H(3) states, "The investigator shall document victim notification under §.05H(2) of this directive in the investigative report recording: (a) The name of the individual who notified the victim; (b) The date, time, and location that the victim was notified; and (c) How the victim was notified." Collectively, these policies guide facility practice regarding reporting to inmates.

Investigation documents were obtained, reviewed, and retained for audit purposes. 16 sexual abuse and sexual harassment investigations were completed during the 12-month audit period. Six of these investigations were randomly selected by the auditor for review. Notification of investigation findings is provided on the *Prison Rape Elimination Act Investigation Inmate Notification* form. Upon notifying the inmate, a copy of the *Prison Rape Elimination Act Investigation Inmate Notification* form is placed in the investigation file. Furthermore, a notation is made in the investigation report indicating the date of notification. Notification is also tracked via the facility investigation spreadsheet. A review of this document noted that notifications are sometimes provided in instances where the investigation was determined to be unfounded or related to an allegation of harassment. Based on the above, the facility has demonstrated compliance with provision 115.73(e).

115.73(f)

The auditor is not required to audit this provision.

Recommendations:

- None

Corrective Action:

- 115.73(a): The documentation does not support that inmates are informed as to whether an allegation has been determined to be substantiated, unsubstantiated, or unfounded. The facility shall provide documentation demonstrating that inmates are informed as to whether an allegation has been determined to be substantiated, unsubstantiated, or unfounded.
- 115.73(c): The facility had only one investigation that required notification pursuant to provision 115.73(c). Notification documents were not provided. The facility shall provide documentation demonstrating that following an inmate's allegation that a staff member has committed sexual abuse against the inmate, the agency shall subsequently inform the inmate (unless the agency has determined that the allegation is unfounded) whenever: (1) The staff member is no longer posted within the inmate's unit; (2) The staff member is no longer employed at the facility; (3) The agency learns that the staff member has been indicted on a charge related to sexual abuse within the facility; or (4) The agency learns that the staff member has been convicted on a charge related to sexual abuse within the facility.

Corrective Action Verification:

- 115.73(a): The facility provided documentation that demonstrates inmates are informed as to whether an allegation has been determined to be substantiated, unsubstantiated, or unfounded.

Furthermore, in one instance it was noted that notification was provided to an inmate who made a sexual harassment complaint. Based the above, the facility has demonstrated compliance with provisions 115.73 (a).

- 115.73(c): The facility had only one investigation that required notification pursuant to provision 115.73(c). Documentation was provided that demonstrates notification was made pursuant to provision 115.73(c). Notification documents noted the type of allegation, the status of the investigation, investigator, and the date of the investigation. Based the above, the facility has demonstrated compliance with provisions 115.73 (c).

DISCIPLINE

Standard 115.76: Disciplinary sanctions for staff

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

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*)

Instructions for Overall Compliance Determination Narrative

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

Documentation:

- *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*
- *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited*
- *COMAR 12.11.01 Internal Investigation Division*
- Investigation documentation

Interviews:

- Warden's designee
- Investigative staff

Site Review:

- None

115.76(a)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.76(a) verbatim. *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited* section .05I(2) disciplinary sanctions for staff states, "An employee determined to have committed sexual misconduct is in violation of Department Standards of Conduct and is subject to: (a) A penalty under the Standards of Conduct, up to and including termination of employment with the Department; (b) Criminal prosecution; and (c) If applicable, notification of a relevant licensing authority. Likewise, section .05I(3) regarding contractors states, "A contractor determined to have committed sexual misconduct is: (a) Considered to be in violation of terms or conditions of a contract or other agreement establishing the relationship between the contractor and the Department or agency; (b) Subject to sanctions according to provisions of the contract or agreement; (c) Is subject to criminal prosecution; and (d) If applicable, notification of a relevant licensing authority." Collectively, these policies guide facility practice regarding disciplinary sanctions for staff.

Pursuant to agency policy staff are subject to disciplinary action for violating agency sexual abuse and sexual harassment policy up to and including termination from employment. Based on the above, the facility has demonstrated compliance with provision 115.76(a).

115.76(b)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*

states the language of provision 115.76(b) verbatim. *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited* section .05I(2) disciplinary sanctions for staff states, “An employee determined to have committed sexual misconduct is in violation of Department Standards of Conduct and is subject to: (a) A penalty under the Standards of Conduct, up to and including termination of employment with the Department; (b) Criminal prosecution; and (c) If applicable, notification of a relevant licensing authority. Likewise, section .05I(3) regarding contractors states, “A contractor determined to have committed sexual misconduct is: (a) Considered to be in violation of terms or conditions of a contract or other agreement establishing the relationship between the contractor and the Department or agency; (b) Subject to sanctions according to provisions of the contract or agreement; (c) Is subject to criminal prosecution; and (d) If applicable, notification of a relevant licensing authority.” Collectively, these policies guide facility practice regarding disciplinary sanctions for staff.

Investigation documents were obtained, reviewed, and retained for audit purposes. 16 sexual abuse and sexual harassment investigations were completed during the 12-month audit period. Six of these investigations were randomly selected by the auditor for review. A review of the investigation documents revealed one instance whereby staff was alleged to have sexually abused an inmate. Due the victim being uncooperative with the investigation, the agency was unable to substantiate an allegation of sexual abuse. However, the staff member was ultimately terminated from employment based on the evidence collected during the investigation.

Based on the above, the facility has demonstrated compliance with provision 115.76(b).

115.76(c)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.76(c) verbatim. *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited* section .05I(2) disciplinary sanctions for staff states, “An employee determined to have committed sexual misconduct is in violation of Department Standards of Conduct and is subject to: (a) A penalty under the Standards of Conduct, up to and including termination of employment with the Department; (b) Criminal prosecution; and (c) If applicable, notification of a relevant licensing authority. Likewise, section .05I(3) regarding contractors states, “A contractor determined to have committed sexual misconduct is: (a) Considered to be in violation of terms or conditions of a contract or other agreement establishing the relationship between the contractor and the Department or agency; (b) Subject to sanctions according to provisions of the contract or agreement; (c) Is subject to criminal prosecution; and (d) If applicable, notification of a relevant licensing authority.” Collectively, these policies guide facility practice regarding disciplinary sanctions for staff.

16 sexual abuse and sexual harassment investigations were completed during the 12-month audit period. Six of these investigations were randomly selected by the auditor for review. Investigation documentation was obtained, reviewed, and retained for audit purposes. A review of the investigation documents revealed one instance whereby a staff member was alleged to have sexually abused an inmate and the employee was terminated from employment. Due the victim being uncooperative with the investigation the agency was unable to substantiate an allegation of sexual abuse. However, the staff member was ultimately terminated from employment based on the evidence collected during the investigation.

The facility did not have any substantiated cases of staff on inmate sexual abuse or sexual harassment (i.e. sexual misconduct) in the past 12 months. However, the agency did terminate an employee for violating agency policies related to sexual abuse and sexual harassment other than engaging in sexual abuse. As a result, there was no documentation to review. Based on the above, the facility has

demonstrated compliance with provision 115.76(c).

115.76(d)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.76(d) verbatim. The manual 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.”

Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited section .05G(1) states, “An IID investigator, or an investigator designated by the IID, shall conduct a prompt, thorough and objective investigation of every complaint of alleged sexual misconduct according to applicable statutory, regulatory, case law, contract, Department procedures, or other reasonably accepted standards related to: (a) Collecting and preserving evidence; (b) Interviewing victims, witnesses, and suspected perpetrators; (c) Conducting and using polygraph examinations; (d) Identifying suspects; (e) Preserving an individual’s personal dignity and legal rights; and (f) Maintaining confidentiality of the investigation.”

COMAR 12.11.01 Internal Investigation Division section .03A regarding scope of the IIU investigative authority states, “The Director, or a designee, shall investigate: (1) An alleged violation of criminal law committed by an employee while on duty; (2) An alleged violation of criminal law committed by an employee while off duty if that violation impacts, or has the potential to impact, negatively on the Department; (3) An alleged violation of criminal law committed by an inmate, a visitor, a nonagency employee, or another individual that may affect the safety or security of a Department facility; (4) An alleged violation of Maryland Public Ethics Law, State Government Article, Title 15, Annotated Code of Maryland, by an employee or nonagency employee; and (5) Other alleged violations that have a negative impact on the Department. B. The Director, or a designee, shall perform other duties and investigative responsibilities assigned by the Secretary.” Section regarding .06 Police Authority states, “When performing duties associated with the IIU, an investigator who is certified as a police officer according to requirements under COMAR 12.04.01 may exercise the authority of a police officer under Correctional Services Article, §10-701(b) and (c), Annotated Code of Maryland.” Collectively, these policies guide facility practice regarding disciplinary sanctions for staff.

Investigation documents were obtained, reviewed, and retained for audit purposes. 16 sexual abuse and sexual harassment investigations were completed during the 12-month audit period. Six of these investigations were randomly selected by the auditor for review. A review of these documents revealed one instance whereby a staff member was alleged to have sexually abused an inmate. The employee was subsequently terminated from employment. The allegation was reported to IIU who has authority to conduct criminal investigations. Due to the nature of the employee’s position at the facility, reporting the incident to a relevant licensing body was not appropriate in this instance.

The agency has policy in place to ensure that sexual abuse and sexual harassment allegations are referred to a law enforcement agency. IIU has law enforcement authority; therefore, all allegations referred to IIU have been effectively referred to a law enforcement agency. Based on the above, the facility has demonstrated compliance with provision 115.76(d).

Recommendations:

- None

Corrective Action:

- None

Standard 115.77: Corrective action for contractors and volunteers**All Yes/No Questions Must Be Answered by the Auditor to Complete the Report****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*)

Instructions for Overall Compliance Determination Narrative

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

Documentation:

- Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual
- Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited
- COMAR 21.07.01.22 Compliance with Law

- Investigation documentation

Interviews:

- Warden's designee

Site Review:

- None

115.77(a)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.77(a) verbatim. *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited* section .04B(6) defines an employee as any individual assigned to or employed by the Department in a full-time, part-time, temporary, or contractual position regardless of job title or classification. Section .05I(2) disciplinary sanctions for staff states, "An employee determined to have committed sexual misconduct is in violation of Department Standards of Conduct and is subject to: (a) A penalty under the Standards of Conduct, up to and including termination of employment with the Department; (b) Criminal prosecution; and (c) If applicable, notification of a relevant licensing authority. Likewise, section .05I(3) regarding contractors states, "A contractor determined to have committed sexual misconduct is: (a) Considered to be in violation of terms or conditions of a contract or other agreement establishing the relationship between the contractor and the Department or agency; (b) Subject to sanctions according to provisions of the contract or agreement; (c) Is subject to criminal prosecution; and (d) If applicable, notification of a relevant licensing authority." Collectively, these policies guide facility practice regarding disciplinary sanctions for staff. *COMAR 21.07.01.22 Compliance with Law* regarding mandatory provision for all contracts, subsection 'C' states it shall comply with all federal, State, and local laws, regulations, and ordinances applicable to its activities and obligations under this contract. Collectively, these policies guide facility practice regarding corrective action for contractors and volunteers.

Investigation documents were obtained, reviewed, and retained for audit purposes. 16 sexual abuse and sexual harassment investigations were completed during the 12-month audit period. Six of these investigations were randomly selected by the auditor for review. None of the investigations involved a contractor or volunteer. Therefore, PATX did not report any contractors or volunteers to law enforcement agencies or relevant licensing bodies during the audit period.

Due a lack of allegations involving a contractor or volunteer, compliance was determined based on agency policy and interview responses. Based on the above, the facility has demonstrated compliance with 115.77(a).

115.77(b)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.77(b) verbatim. *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited* section .04B(6) defines an employee as any individual assigned to or employed by the Department in a full-time, part-time, temporary, or contractual position regardless of job title or classification. Section .05I(2) disciplinary sanctions for staff states, "An employee determined to have committed sexual misconduct is in violation of Department Standards of Conduct and is subject to: (a) A penalty under the Standards of Conduct, up to and including termination of employment with the

Department; (b) Criminal prosecution; and (c) If applicable, notification of a relevant licensing authority. Likewise, section .051(3) regarding contractors states, "A contractor determined to have committed sexual misconduct is: (a) Considered to be in violation of terms or conditions of a contract or other agreement establishing the relationship between the contractor and the Department or agency; (b) Subject to sanctions according to provisions of the contract or agreement; (c) Is subject to criminal prosecution; and (d) If applicable, notification of a relevant licensing authority." Collectively, these policies guide facility practice regarding disciplinary sanctions for staff.

Investigation documents were obtained, reviewed, and retained for audit purposes. 16 sexual abuse and sexual harassment investigations were completed during the 12-month audit period. Six of these investigations were randomly selected by the auditor for review. None of the investigations involved a contractor or volunteer. Therefore, PATX did not report any contractors or volunteers to law enforcement agencies or relevant licensing bodies during the audit period.

The warden reported that that any contractor or volunteer would be banned from the facility for engaging in sexually abusive behavior. An investigation into the matter would be conducted. If the allegation is substantiated, the agency will subsequently notify any relevant licensing agencies of the investigation findings.

Due a lack of allegations involving a contractor or volunteer, compliance was determined based on agency policy and interview responses. Based on the above, the facility has demonstrated compliance with 115.77(b).

Recommendations:

- None

Corrective Action:

- None

Standard 115.78: Disciplinary sanctions for inmates

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

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*)

Instructions for Overall Compliance Determination Narrative

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

Documentation:

- *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*

- *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited*
- *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited*
- *COMAR 12.03.01 Inmate Discipline*
- Investigation documentation

Interviews:

- Warden's designee
- Medical and mental health staff

Site Review:

- None

115.78(a)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.78(a) verbatim. *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* section .05I(2) states, "An inmate: (a) Determined to have committed sexual conduct is subject to: (i) A penalty established under Inmate Disciplinary Process; and (ii) If applicable, criminal prosecution." *COMAR 12.03.01 Inmate Discipline* outlines the inmate disciplinary process and sanctions related to the disciplinary process. Section .05B(1) regarding reporting an inmate rule violation states, "Upon completion of the investigation under §A of this regulation, when staff determines that an inmate allegedly violated an inmate rule or rules under this chapter, staff shall use a Notice of Inmate Rule Violation form to report the inmate rule violation." Therefore, inmates are subject to a formal administrative process and a criminal process followed regarding inmate discipline.

Investigation documents were obtained, reviewed, and retained for audit purposes. 16 sexual abuse and sexual harassment investigations were completed during the 12-month audit period. Six of these investigations were randomly selected by the auditor for review. There were no substantiated reports of inmate-on-inmate sexual abuse during the audit period.

Due a lack of allegations involving inmate-on-inmate sexual abuse, compliance was determined based on agency policy and interview responses. Based on the above, the facility has demonstrated compliance with provision 115.78(a).

115.78(b)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.78(b) verbatim. *COMAR 12.03.01 Inmate Discipline* outlines the inmate disciplinary process and sanctions related to the disciplinary process. Agency Directive does not specifically state that discipline shall be "commensurate with the nature and circumstances of the abuse committed, the inmate's disciplinary history, and the sanctions imposed for comparable offenses by other inmates with similar histories." However, the detail of the directive appears to adhere to the overall intent of the standard in the way the agency enforces rules and regulations and administers discipline.

Investigation documents were obtained, reviewed, and retained for audit purposes. 16 sexual abuse and sexual harassment investigations were completed during the 12-month audit period. Six of these investigations were randomly selected by the auditor for review. There were no substantiated reports of inmate-on-inmate abuse.

Per the warden inmates are subject to the institutional disciplinary process and/or action for violating the department's sexual abuse and sexual harassment policy. Violation of the department's sexual abuse and sexual harassment policies would result in disciplinary sanctions. Sanctions include but are not limited to a notice of infraction, interdepartmental transfer, or placement in segregation. Additionally, inmates who are mentally ill will undergo a competency review at an administrative hearing.

Due a lack of allegations involving inmate-on-inmate sexual abuse, compliance was determined based on agency policy and interview responses. Based on the above, the facility has demonstrated compliance with provision 115.78(b).

115.78(c)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.78(c) verbatim. *COMAR 12.03.01 Inmate Discipline* outlines the inmate disciplinary process and sanctions related to the disciplinary process. Section .08D states, "Whether or not the defendant is currently under the care of mental health staff, if there is cause to believe that the defendant may not be mentally competent and is unable to participate in the inmate disciplinary process, the hearing officer shall postpone the disciplinary proceeding and the facility representative or other facility staff shall refer the defendant to the Department's mental health staff to: (1) Assess the defendant's mental health status; and (2) Determine whether the defendant is competent to participate in the disciplinary process. Section .20B(8) states, "If the defendant enters a plea of Not Competent, the hearing officer or facility representative, if designated, or facility staff shall postpone the case, if necessary, and contact the facility's mental health staff and request that staff determine whether the defendant is competent to participate in the disciplinary proceeding and whether the defendant was competent to understand and control the alleged behavior at the time of the offense."

Investigation documents were obtained, reviewed, and retained for audit purposes. 16 sexual abuse and sexual harassment investigations were completed during the 12-month audit period. Six of these investigations were randomly selected by the auditor for review. There were no substantiated reports of inmate-on-inmate abuse during the 12-month audit period.

Per the warden, inmates who are mentally ill will undergo a competency review at an administrative hearing.

Due a lack of allegations involving inmate-on-inmate sexual abuse, compliance was determined based on agency policy and interview responses. Based on the above, the facility has demonstrated compliance with provision 115.78(c).

115.78(d)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.78(d) verbatim. *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* section .05I(2)(b) states, "If therapy, counseling, or other intervention designed to address and correct underlying reasons or motivation for sexual conduct is available, may be required to participate in available therapy, counseling, or other intervention as a condition of participation in other forms of programming or inmate benefits that are otherwise subject to sanctioning under the Inmate Disciplinary Process." Collectively, these policies guide facility practice regarding disciplinary sanctions for inmates.

Investigation documents were obtained, reviewed, and retained for audit purposes. 16 sexual abuse and sexual harassment investigations were completed during the 12-month audit period. Six of these investigations were randomly selected by the auditor for review. There were no substantiated reports of inmate-on-inmate abuse during the 12-month audit period.

Medical health care staff reported that the facility does offer therapy, counseling, or other interventions designed to address and correct underlying reasons or motivations for the abuse. Staff confirmed that an abuser would be referred for treatment, a treatment plan would be created, and inmate engagement is required as part of the treatment plan.

Due a lack of allegations involving inmate-on-inmate sexual abuse, compliance was determined based on agency policy and interview responses. Based on the above, the facility has demonstrated compliance with provision 115.78(d).

115.78(e)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.78(e) verbatim and uses the term “Department” in place of the term “Agency.” The manual states, “The Department may discipline an inmate for sexual contact with staff only upon a finding that the staff member did not consent to such contact.” *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* section .05I(2)(c) states inmates, “May be disciplined for sexual conduct with staff only if it is determined that the staff did not consent to the sexual conduct.” Collectively, these policies guide facility practice regarding disciplinary sanctions for inmates.

Investigation documents were obtained, reviewed, and retained for audit purposes. 16 sexual abuse and sexual harassment investigations were completed during the 12-month audit period. Six of these investigations were randomly selected by the auditor for review. There were zero allegations of sexual contact between an inmate and staff where the staff member did not consent to such contact.

Due a lack of allegations involving sexual contact between an inmate and staff where the staff member did not consent to such contact, compliance was determined based on agency policy and interview responses. Based on the above, the facility has demonstrated compliance with 115.78(e).

115.78(f)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.78(f) verbatim. *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited* .05I(5) states, “A complaint of alleged sexual misconduct made in good faith based upon a reasonable belief that the alleged sexual misconduct occurred may not be considered a false report or lying, even if the required investigation does not establish sufficient evidence to substantiate the allegation of sexual misconduct.” *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* section .05I(4) states, “A complaint of alleged inmate on inmate sexual conduct made in good faith based upon a reasonable belief that the alleged inmate on inmate sexual conduct occurred may not be considered a false report or lying, even if the required investigation does not establish sufficient evidence to substantiate the allegation of inmate on inmate sexual conduct.” Collectively, these policies guide facility practice regarding disciplinary sanctions for inmates.

Investigation documents were obtained, reviewed, and retained for audit purposes. 16 sexual abuse and sexual harassment investigations were completed during the 12-month audit period. Six of these investigations were randomly selected by the auditor for review. All six investigations were determined

to be either unfounded or unsubstantiated upon completion. There was no indication that inmates are disciplined for making allegations and none of the investigation reports noted any disciplinary action taken against the reporting inmate. Based on the above, the facility has demonstrated compliance with 115.78(f).

115.78(g)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.78(g) verbatim and uses the term “Department” in place of the term “Agency.” *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* section .05A(1) states, “An inmate may not: Commit, participate in, support, or otherwise condone sexual conduct;” which prohibits all sexual activity between inmates. Additionally, *COMAR 12.03.01 Inmate Discipline* section .02 also prohibits sexual activity between inmates. Collectively, these policies guide facility practice regarding disciplinary sanctions for inmates.

Per policy, the agency does prohibit all sexual activity between inmates and does discipline inmates for such activity. Based on the above, the facility has demonstrated compliance with 115.78(g).

Recommendations:

- None

Corrective Action:

- None

MEDICAL AND MENTAL CARE

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

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

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*)

Instructions for Overall Compliance Determination Narrative

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

Documentation:

- *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*
- *Executive Directive OPS.200.0006 Assessment for Risk of Sexual Victimization and Abusiveness*
- *COMAR 10.12.02 Rape and Sexual Offense – Physician and Hospital Charges*
- Risk assessment documentation
- *PREA Follow Up*

Interviews:

- Inmates who disclosed victimization at risk screening

- Staff responsible for risk screening
- Medical and mental health staff

Site Review:

- Records Office

115.81(a) and (c)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.81(a) and (c) verbatim. *Executive Directive OPS.200.0006 Assessment for Risk of Sexual Victimization and Abusiveness* section .05E(2)(c) states, “Whenever screening indicates that an inmate has experienced prior sexual victimization, whether it occurred in a facility or in the community, the inmate is offered a follow-up with medical or mental health practitioner within 14 days of the initial PREA screening;” with regard to offering a follow up meeting. Collectively, these policies guide facility practice regarding Medical and mental health screenings; history of sexual abuse.

Upon arrival inmates are processed through the intake/orientation area. The intake/orientation process includes completion of the PREA intake screening. If risk screening results indicate that an inmate experienced prior sexual victimization, whether it occurred in an institutional setting or in the community, the inmate is offered a follow up meeting with medical or mental health care staff. Referrals are documented on the *PREA Follow Up* form. The form allows the inmate to accept or refuse a follow-up meeting with health care staff and is signed by the inmate and staff upon completion.

The *PREA Intake Screening* forms and *PREA Follow-Up* forms were reviewed. Upon review, it was noted that inmates are offered a follow-up meeting with a health care practitioner based on risk screening results. A review of risk screening documents noted that inmates are offered a follow-up meeting within 14 days. Additionally, inmates who were offered a follow-up meeting refused the follow-up meeting.

Staff responsible for risk screening report that inmates are referred within 14 days. Furthermore, staff indicate that follow-up meetings are generated almost immediately and sent via email to both medical and mental health care personnel. Three inmates who disclosed sexual victimization during risk screening were interviewed. Only one inmate reported being offered a follow-up meeting based on risk screening results. Inmate interview results did not coincide with a review of risk screening forms.

Inmate interviews indicate that 14-day follow-up meetings are not provided after disclosure of prior sexual victimization. However, a review of *PREA Follow-Up* forms documents and interview results noted that 14-day follow-up meeting offers are completed relatively quickly (in some instances the same day) upon learning that an inmate experienced prior sexual victimization. Staff interviews confirm documentation review results and state that both medical and mental health care staff are notified in writing. Based on the above, the facility has demonstrated compliance with provision 115.81(a) and (c).

115.81(b)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.81(b) verbatim. The manual states, “If the screening pursuant to § 115.41 indicates that a prison inmate has previously perpetrated sexual abuse, whether it occurred in an institutional setting or in the community, staff shall ensure that the inmate is offered a follow-up meeting

with a mental health practitioner within 14 days of the intake screening.” Collectively, these policies guide facility practice regarding Medical and mental health screenings; history of sexual abuse.

Upon arrival inmates are processed through the intake/orientation area. Part of the intake/orientation process includes completion of intake screening. If risk screening results indicate that an inmate previously perpetrated sexual abuse, whether it occurred in an institutional setting or in the community, the inmate is offered a follow-up meeting with mental health care. Referrals are documented on a *PREA Follow Up* form. The form allows the inmate to accept or refuse a follow-up meeting with mental health care staff and is signed by the inmate and risk screening staff upon completion.

PATX reported zero referrals to mental health care pursuant to risk screening results. A review of inmate *PREA Intake Screening* forms was conducted and inmates who were offered a follow-up meeting with a mental health practitioner refused this meeting. Therefore, none of the screening documentation demonstrated a referral under provision 115.81(b).

Staff responsible for risk screening indicate that inmates are referred within 14 days. Staff report that follow-up meetings are generated almost immediately. Notifications are usually sent via email to both medical and mental health care staff. Provision 115.81(b) only requires an offer of a follow-up meeting with a mental health practitioner; however, facility practice is to notify both medical and mental health care if an inmate accepts the follow-up meeting.

Based on the above, the facility has demonstrated compliance with provision 115.81(b).

115.81(d)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.81(d) verbatim. *Executive Directive OPS.200.0006 Assessment for Risk of Sexual Victimization and Abusiveness* section .05E(2)(e) requires the facility PREA compliance manager to ensure the confidentiality of screening information. Collectively, these policies guide facility practice regarding Medical and mental health screenings; history of sexual abuse.

Upon completion the *PREA Intake Screening* form is placed in the inmate file. Inmate files are secured in the file room within a locked cabinet. The file room is a secure room and staffed by records personnel. Case Management ensures screening information is entered in the Offender Case Management System (OCMS) which has limited access, is password protected, and confined to case management staff with user profile access.

Per policy, risk assessment results are provided on an as needed basis. Documentation is both physically and electronically secured. Based on the above, the facility has demonstrated compliance with provision 115.81(d).

115.81(e)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.81(e) verbatim. The manual states, “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.” PATX does not house anyone under the age of 18. Therefore, informed consent is required of medical and mental health practitioners in every instance before reporting information regarding prior sexual victimization that did not occur in an institutional setting.

Medical staff report informed consent is required prior to reporting information of prior sexual victimization that did not occur in an institutional setting. A form allowing disclosure of information regarding prior sexual victimization that did not occur in an institutional setting has been developed. Staff report that zero disclosures have been made pursuant to provision 115.81(e) in the past 12 months.

Based on the above, the facility has demonstrated substantial compliance with provision 115.81(e).

Recommendations:

- *Executive Directive OPS.200.0006 Assessment for Risk of Sexual Victimization and Abusiveness* section .05E(2)(c) states, "Whenever screening indicates that an inmate has experienced prior sexual victimization, whether it occurred in a facility or in the community, the inmate is offered a follow-up with medical or mental health practitioner within 14 days of the initial PREA screening;" regarding the offer of a follow up meeting. This speaks only to those inmates who have experienced prior sexual victimization. It is recommended that *Executive Directive OPS.200.0006 Assessment for Risk of Sexual Victimization and Abusiveness* be revised to indicate the obligation to ensure that inmates who have previously perpetrated sexual abuse, whether it occurred in a facility or in the community, be offered a follow-up meeting with a mental health practitioner within 14 days which is consistent with the standards.

Corrective Action:

- None

Standard 115.82: Access to emergency medical and mental health services

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

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*)

Instructions for Overall Compliance Determination Narrative

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

Documentation:

- *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*
- *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited*
- *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited*
- *Medical Evaluations Manual Chapter 13*
- Investigation documentation

Interviews:

- Security staff and non-security staff first responders
- Medical and mental health staff

Site Review:

- Health Care

115.82(a)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.82(a) verbatim. Executive *Directive OPS.050.0001 Sexual Misconduct – Prohibited* .05B(5) states in part, "The head of a unit, or a designee, is responsible for ensuring that: Appropriate medical and mental health services and support services are made available

to a victim of sexual misconduct.” *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* section .05I(4) states, “The head of a unit, or a designee, is responsible for ensuring that: Appropriate medical and mental health services and support services are made available to a victim of inmate on inmate sexual conduct.” Collectively, these policies guide facility practice regarding access to emergency medical and mental health services.

Medical staff reported that inmate victims of sexual abuse are seen immediately. Initially, medical staff will speak with the inmate victim in a secure room. Medical staff report that treatment decisions will be made based on the inmate’s presentation. If a forensic exam is deemed appropriate, the inmate will be taken off-site to a local medical facility. Inmate victims of sexual abuse did report speaking with health care upon making a report of sexual abuse.

The medical area was observed during the tour. Based on observations and conversations with employees it is evident that facility medical employees provide general medical care services and basic emergency care services. Any significant medical procedure would have to be performed off-site at a local hospital.

Based on the above, the facility has demonstrated compliance with provision 115.82(a).

115.82(b)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.82(b) verbatim. *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited* 05D(2)(ii) states, “If applicable, immediately, if qualified, providing medical attention or arranging for appropriate medical attention.” *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* section .05D(2)(ii) states, “If applicable, immediately, if qualified, providing medical attention or arranging for appropriate medical attention.” Collectively, these policies guide facility practice regarding access to emergency medical and mental health services.

Qualified medical or mental health staff are available on-site. In the past 12 months, there were two allegations of sexual abuse that required staff to act as a first responder. A review of investigation documents noted that in both instances facility medical staff were immediately available. One inmate was referred to Baltimore Mercy Hospital for a forensic examination. The other inmate was escorted to health care immediately after the alleged incident.

A security staff member who would act as a first responder was interviewed. Staff reported that the alleged victim and abuser would be immediately separated, the crime scene would be protected, it would be requested that the victim not take any actions that would destroy physical evidence, and steps would be taken to ensure that the alleged abuser did not take any actions that would destroy evidence. Additionally, medical and mental health care would be immediately notified. Likewise, during random security staff interviews it was noted that security staff would respond in accordance with provision 115.64(a).

Based on the above, the facility has demonstrated compliance with provision 115.82(b).

115.82(c)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.82(c) verbatim. The *Medical Evaluation Manual Chapter 13* section F7-8 states, “All follow-up testing related to Sexually Transmitted Infections (STI), pregnancy, HBV, RPR

shall be reviewed with the inmate within 5 business days, including any additional testing or required treatment. All the PREA related post assault follow-up clinical activities for medical, and mental health care must be completed whether or not an off-site visit was indicated including testing and prophylactic treatment for STIs and pregnancy (if female).” Collectively, these policies guide facility practice regarding access to emergency medical and mental health services.

A review of investigation documents noted that one inmate was referred to Mercy Hospital for a forensic examination within 24 hours of reporting the alleged incident. The inmate subsequently refused the SAFE examination. Included in the documentation was information from the forensic examiner that the inmate refused the exam. The discharge paperwork indicated that due to denial, the inmate did not receive information regarding emergency contraception, or sexually transmitted infections prophylaxis.

A separate investigation indicated that that the alleged victim and alleged abuser were immediately separated, and the alleged victim was immediately taken to health care. Medical staff ultimately declined to refer the inmate for a forensic medical exam based on the nature of the allegation and denial by the inmate that anything occurred. None of the of the inmates who reported sexual abuse, reported incidents that would have required timely information or access to emergency contraception and sexually transmitted infections prophylaxis. These allegations were noted as having occurred months or years in the past.

Medical staff reported that victims of sexual abuse are offered information regarding access to emergency contraception and prophylaxis by the medical provider. The provider will verbally discuss the information with the inmate and allow the inmate to ask any questions. Medical staff also advised that the regional infection control team may be involved.

Based on the above, the facility has demonstrated compliance with provision 115.82(c).

115.82(d)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.82(d) verbatim. Executive *Directive OPS.050.0001 Sexual Misconduct – Prohibited* 05G(3)(a); Executive *Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* section .05D(2)(ii) states, “If applicable, immediately, if qualified, providing medical attention or arranging for appropriate medical attention.” The *Medical Evaluation Manual Chapter 13* section O states, “All treatment services shall be provided to both parties (the victim, and the alleged abuser) without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.” Collectively, these policies guide facility practice regarding access to emergency medical and mental health services.

Investigation documents were reviewed and none of the documentation indicates that inmates were charged for any services. Related to an investigation of sexual abuse or sexual harassment. Based on the above, the facility has demonstrated compliance with provision 115.82(d).

Recommendations:

- None

Corrective Action:

- None

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

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

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*)

Instructions for Overall Compliance Determination Narrative

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

Documentation:

- *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*
- *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited*
- *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited*
- *Medical Evaluations Manual Chapter 13*
- *Medical Administrative Manual Chapter 9*
- Investigation documentation

Interviews:

- Medical and mental health staff

Site Review:

- Health Care

115.83(a)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.83(a) verbatim. *Executive Directive OPS.050.0001 Sexual Misconduct – Prohibited* section .05D(2)(ii) states, "If applicable, immediately, if qualified, providing medical attention or arranging for appropriate medical attention." *Executive Directive OPS.200.0005 Inmate on Inmate Sexual Conduct – Prohibited* section .05D(2)(ii) states, "If applicable, immediately, if qualified, providing medical attention or arranging for appropriate medical attention."

The *Medical Evaluation Manual Chapter 13* section II F6 states, "All inmates shall be seen for medical follow-up within the first 24 hours following the initial offsite medical visit regarding the allegations of sexual assault." Likewise, section II H states, "A Mental Health Professional will see the patient within

24 (twenty-four) hours of his or her return to evaluate for any treatment needs, and document findings in the patient's medical record." Collectively, these policies guide facility practice regarding ongoing medical and mental health care for sexual abuse victims and abusers.

During the past 12 months the facility did not have any substantiated incidents of sexual abuse. Based on the above, the facility has demonstrated compliance with provision 115.83(a).

115.83(b)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.83(b) verbatim. The *Medical Evaluation Manual Chapter 13* section II F5 states, "Within 4 (four) hours of return to the DPSCS facility, a clinician will review the emergency room notes, and write appropriate orders for care in the patient's medical record. If the provider is off site, the ER protocol for review will be conducted and the disposition of care executed." Additionally, section II F4 states, "Nurse will make a referral to the mental health vendor for follow up of the patient upon his or her return to the facility along with state psychology." Section II F6 states, "All inmates shall be seen for medical follow-up within the first 24 hours following the initial offsite medical visit regarding the allegations of sexual assault." Likewise, section II H states, "A Mental Health Professional will see the patient within 24 (twenty-four) hours of his or her return to evaluate for any treatment needs, and document findings in the patient's medical record."

The *Medical Administrative Manual Chapter 9* provides guidance with regard to follow-up treatment for inmates leaving the Department of Public Safety and Corrections facilities (Pre-Trial, Sentenced, and Home Detention Units) will be provided with information and access to systems that will enable them to continue care for diagnosed disease processes that was received while the inmate was incarcerated. Collectively, these policies guide facility practice regarding access to ongoing medical and mental health care for sexual abuse victims and abusers.

During the past 12 months the facility did not have any substantiated incidents of sexual abuse. Medical staff reported that treatment decisions will be made based on the inmate's condition. This may include STD testing, pharmacy, dental personnel, and infection control. Treatment plans are developed and administered in accordance with the treatment team recommendations. Based on the above, the facility has demonstrated compliance with provision 115.83(b).

115.83(c)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.83(c) verbatim. *Medical Evaluations Manual Chapter 13 section I states*, "Detainees/inmates reporting to have been sexually assaulted while in DPSCS custody shall be managed using guidelines consistent with the Prison Rape Elimination Act (PREA). An initial medical evaluation and subsequent intervention focused solely upon injury or trauma sustained during the assault shall be conducted. DPSCS medical vendors will not participate in or conduct a forensic examination. All specimen collection for forensic examinations will be done after the patient is transferred to an approved off-site medical facility for assessment by an independent provider or nurse who conducts forensic examinations."

The *Medical Administrative Manual Chapter 9* provides guidance with regard to follow-up treatment for inmates leaving the Department of Public Safety and Corrections facilities (Pre-Trial, Sentenced, and Home Detention Units) will be provided with information and access to systems that will enable them to continue care for diagnosed disease processes that was received while the inmate was incarcerated.

Collectively, these policies guide facility practice regarding access to ongoing medical and mental health care for sexual abuse victims and abusers.

Medical staff reported that forensic exams are conducted at the local hospital. Facility medical staff perform initial evaluation and follow up services upon the inmate's return. It was reported that medical staff have complete medical authority regarding the medical treatment of inmates. During the past 12 months the facility did not have any substantiated incidents of sexual abuse that required on-going treatment.

Based on the above, the facility has demonstrated compliance with provision 115.83(c).

115.83(d)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.83(c) verbatim. The *Medical Evaluations Manual Chapter 13* section II(F)(8) states, "All of the PREA related post assault follow-up clinical activities for medical, and mental health care must be completed whether or not an off-site visit was indicated including testing and prophylactic treatment for STIs and pregnancy (if female)." Collectively, these policies guide facility practice regarding ongoing medical and mental health care for sexual abuse victims and abusers.

In the past 12 months, facility staff did not report any instances of sexually abusive vaginal penetration. Likewise, a review of investigation documents and investigation tracking information did not reveal any instances of sexually abusive vaginal penetration. Based on the above, the facility has demonstrated compliance with provision 115.83(d).

115.83(e)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.83(c) verbatim. The *Medical Evaluations Manual Chapter 13* section II(F)(9) states, "If pregnancy results from the sexual abuse the detainee or inmate shall receive timely and comprehensive information about access to all pregnancy related medical services including abortion, as outlined in the DPSCS Clinical Service Pregnancy Management Manual along with a referral to Mental Health/Social Work." Collectively, these policies guide facility practice regarding ongoing medical and mental health care for sexual abuse victims and abusers.

Facility medical staff reported that there is an obstetrician gynecologist contractor on staff to assist inmates who become pregnant. Thus, inmate victims would be given timely access to information and pregnancy related services. Additionally, the inmate would be transferred to a facility with medical services and social services for inmates who are pregnant. Facility staff did not report any instances of pregnancy as a result of sexual abuse in the past 12 months.

Based on the above, the facility has demonstrated compliance with provision 115.83(d).

115.83(f)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.83(f) verbatim. *Medical Evaluations Manual Chapter 13* section II F7 states, "All follow-up testing related to Sexually Transmitted Infections (STI), pregnancy, HBV, RPR shall be reviewed with the inmate within 5 business days, including any additional testing or required treatment." Section II F8 requires, "All of the PREA related post assault follow-up clinical activities for

medical, and mental health care must be completed whether or not an off-site visit was indicated including testing and prophylactic treatment for STIs and pregnancy (if female).”

Additionally, section II M states, “The patient and alleged abuser shall be offered follow-up STI testing within 60-90 days of initial testing to include HIV, HCV, and syphilis serology.” Collectively, these policies guide facility practice regarding ongoing medical and mental health care for sexual abuse victims and abusers.

The facility did not report any substantiated incidents of sexual abuse during the past 12 months. Therefore, the facility did not provide the auditor with any documentation verifying that victims of sexual abuse were offered tests for sexually transmitted infections. Based on the above, the facility has demonstrated compliance with provision 115.83(f).

115.83(g)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.83(g) verbatim. *Medical Evaluations Manual Chapter 13* section II O states, “All treatment services shall be provided to both parties (the victim, and the alleged abuser) without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.” Collectively, these policies guide facility practice regarding ongoing medical and mental health care for sexual abuse victims and abusers.

The facility did not report any substantiated incidents of sexual abuse during the past 12 months. Investigation documents were reviewed and none of the documentation noted that inmates were charged for any services rendered. Based on the above, the facility has demonstrated compliance with provision 115.83(g).

115.83(h)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.83(h) verbatim. *Medical Evaluations Manual Chapter 13* section II K states, “The alleged abuser shall be offered mental health evaluation by a mental health professional within 30-60 days of the alleged assault or abuse.” Collectively, these policies guide facility practice regarding ongoing medical and mental health care for sexual abuse victims and abusers.

Mental health staff reported that a mental health evaluation of all inmate on inmate abusers is conducted. These evaluations must occur within 24 hours of receiving notification. Mental health staff also report that evaluations would also transfer with the inmate and would include services upon release when possible.

The facility did not report any substantiated incidents of inmate-on-inmate sexual abuse during the past 12 months. Therefore, the facility did not provide the auditor with any documentation verifying that the facility attempted to conduct a mental health evaluation of all known inmate-on-inmate abusers. Based on the above, the facility has demonstrated compliance with provision 115.83(h).

Recommendations:

- None

Corrective Action:

- None

DATA COLLECTION AND REVIEW

Standard 115.86: Sexual abuse incident reviews

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

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*)

Instructions for Overall Compliance Determination Narrative

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

Documentation:

- *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*
- *Executive Directive OSPS.020.0027 PREA Investigations – Tracking and Review*
- *Executive Directive IIU.110.0011 Investigating Sex Related Offenses*
- Investigation documentation

Interviews:

- Warden's designee
- PREA compliance manager
- Incident review team

Site Review:

- None

115.86(a)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.86(a) verbatim. *Executive Directive OSPS.020.0027 PREA Investigations – Tracking and Review* states, "Except for sex related offenses that are investigated and determined to be unfounded, a facility incident review team shall, within 30 days after an investigation of a sex related offense is concluded shall review the incident." The agency defines "sex related offense" as any behavior or act of a sexual nature by an employee directed toward another inmate or directed toward an inmate's personal contact or associate who believes the employee exercises influence or authority over the inmate. Sex related offenses also include behaviors or acts of a derogatory or offensive sexual nature by an inmate directed toward another inmate. This includes kissing, hugging, and

handholding for the sexual arousal or gratification of an individual, or for the abuse of either party; sexual abuse; indecent exposure; voyeurism; sexual harassment; request for a sexual favor; and retaliation.

Also included under “sex related offense” is solicitation or attempt to commit any of the acts listed above; action or the lack of action on the part of an employee that contributed to an incident involving a sex related offense; and any sexual crime identified under Criminal Law Article, §§3-301 — 312, 3-314, and 3-324, Annotated Code of Maryland. Collectively, these policies guide facility practice regarding sexual abuse incident reviews.

The facility did report at least one incident of unsubstantiated sexual abuse in the past 12 months. Investigation records indicate that sexual abuse incident reviews are completed as required. However, the facility did not provide sexual abuse incident review documentation.

Agency policy requires that a sexual abuse incident review be concluded for any sex related offense that is not determined to be unfounded. The facility did not provide documentation that demonstrates a sexual abuse incident review was completed. Based on the above, the facility has not demonstrated compliance with provision 115.86(a).

115.86(b)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.86(b) verbatim. *Executive Directive OSPS.020.0027 PREA Investigations – Tracking and Review* states, “Except for sex related offenses that are investigated and determined to be unfounded, a facility incident review team shall, within 30 days after an investigation of a sex related offense is concluded shall review the incident.” Collectively, these policies guide facility practice regarding sexual abuse incident reviews.

The facility did report at least one incident of unsubstantiated sexual abuse in the past 12 months. Facility investigation records indicate that sexual abuse incident reviews are required. However, the facility did not provide sexual abuse incident review documentation.

Agency policy requires that a sexual abuse incident review be conducted within 30 days after an investigation of a sex related offense is concluded. The facility did not provide documentation that demonstrates a sexual abuse incident reviews are completed within 30 days of the conclusion of a sexual abuse investigation. Based on the above, the facility has not demonstrated compliance with provision 115.86(b).

115.86(c)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.86(c) verbatim. *Executive Directive OSPS.020.0027 PREA Investigations – Tracking and Review* section .05E states in part, “The facility incident review team shall: Consist of upper-level facility management officials designated by the facility managing official after consultation with the facility PREA Compliance Manager. (2) Have input from or access to line supervisors, investigators, and medical or mental health practitioners concerning the incident being reviewed.” Collectively, these policies guide facility practice regarding sexual abuse incident reviews. During an interview the warden reported that the facility does have a sexual abuse incident review team. The team consists of the assistant warden (PREA manager), security chief, investigative staff, shift command, and medical and mental health staff. Training staff may also be present on occasion.

The facility did report at least one incident of unsubstantiated sexual abuse in the past 12 months. Facility investigation records indicate that sexual abuse incident reviews are required. However, the facility did not provide sexual abuse incident review documentation.

The facility did not provide documentation that demonstrates sexual abuse incident review teams consist of upper level-management officials, with input from line supervisors, investigators, and medical or mental health practitioners. Based on the above, the facility has not demonstrated compliance with provision 115.86(c).

115.86(d)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.86(d) verbatim. *Executive Directive OSPS.020.0027 PREA Investigations – Tracking and Review* section .05E(3) requires the sexual abuse incident review team to consider if the incident or allegation indicates a need to change policy or procedure to better prevent, detect or respond to sexual abuse. Likewise section .05E(4) states the incident review team shall, “Consider if the incident or allegation was motivated by: (a) Race; (b) Ethnicity; (c) Gender identity; (d) Lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; (e) Gang affiliation; or (f) Other group dynamics at the correctional facility.”

The team shall also examine the location where the incident allegedly occurred to determine if there are physical plant issues that may have contributed to the incident, assess staffing levels in the area, and the need for monitoring technology to augment or supplement staffing in these areas. Section .05E(6) states, “Prepare a report of findings for the managing official and PREA compliance manager, which includes, but is not limited to: (a) Identifying problem areas; (b) Necessary corrective action; and (c) Recommendations for improvement.” Collectively, these policies guide facility practice regarding sexual abuse incident reviews.

The facility did report at least one incident of unsubstantiated sexual abuse in the past 12 months. Facility investigation records indicate that sexual abuse incident reviews are required. However, the facility did not provide sexual abuse incident review documentation.

Interviews noted that sexual abuse incident reviews are conducted. The warden reported that sexual abuse incident reviews are utilized to discuss any necessary changes to policies or practices relevant to allegations or incidents at the facility. The team may include discussion with training staff to address any training needs.

An incident review team member reported that the review team does consider whether the incident or allegation was motivated by the criteria outlined in provision 115.86(d). The team will also discuss the area where the incident occurred in order to evaluate discuss issues such as camera placement, staffing levels, and the implementation of other monitoring technology. It was also reported that staffing levels are examined during the yearly staffing plan review.

The PREA compliance manager reported that a report of findings is prepared. This report is completed in conjunction with information discussed at the warden’s meeting. The report may discuss factors that contributed to the incident or allegation and changes necessary to prevent future allegations or incidents. Upon completion the PREA compliance manager will review the report and complete any changes.

A review of the documentation noted that incident reviews are conducted using the standardized

agency sexual abuse incident review form. The form contains most of the required elements for conducting a sexual abuse incident review in accordance with provision 115.86(d). However, the form does not demonstrate consideration for all the elements outlined in 115.86(d). Specifically, the form does not demonstrate consideration for an inmate's lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status. Nor is there any narrative that would suggest these elements were considered during the conduct of the sexual abuse incident review. Consideration for these elements is explicitly stated in provision 115.86(d). Based on the above, the facility has not demonstrated compliance with provision 115.86(d).

115.86(e)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.86(e) verbatim. *Executive Directive OSPS.020.0027 PREA Investigations – Tracking and Review* section .05F states, “(1) The managing official shall: (1) Work with the facility's PREA Compliance Manager to: (a) Implement the facility incident review team's recommendations for improvement from the review team; or (b) If a recommendation is not implemented, document the reason for not adopting the recommendation.” Collectively, these policies guide facility practice regarding sexual abuse incident reviews.

The facility did report at least one incident of unsubstantiated sexual abuse in the past 12 months. Facility investigation records indicate that sexual abuse incident reviews are required. However, the facility did not provide the sexual abuse incident review documentation.

Based on the above, the facility has not demonstrated compliance with provision 115.86(e).

Recommendations:

- None

Corrective Action:

- 115.86 (a)(b)(c)(d)(e): The facility reported one incident of unsubstantiated sexual abuse in the past 12 months. Based on facility investigation records this would be the only investigation that would require a sexual abuse incident review. However, the facility did not provide the sexual abuse incident review documentation.
- 115.86(d): A review of the sexual abuse incident review documentation does not demonstrate consideration regarding whether or not the incident was motivated by the inmate's lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status. The standards explicitly require a report of finding that includes but is not necessarily limited to determinations made pursuant to every element indicated in paragraphs (d)(1)-(d)(5) of this section. The sexual abuse incident review should be revised to reflect consideration for whether or not the incident was motivated by the inmate's lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status.

Corrective Action Verification:

- 115.86 (a)(b)(c)(d)(e): Sexual abuse incident review forms were provided to the auditor for review. Review teams were noted to consist of the facility compliance manager, investigative staff, case management staff, health services and mental health staff. The time and date of the

meeting was also noted. Meetings were noted to have occurred within 30 days from completion of the investigation with only one exception. A review of this documentation noted that incident review team considers the provisions required of Standard 115.86 and provides written narrative for each section. The facility has demonstrated substantial compliance with Standard 115.86.

- 115.86(d): Agency policy specifically requires the incident review team to consider the inmate's lesbian, gay, bisexual, transgender, or intersex identification status. A review of the sexual abuse incident review documentation noted that none of the incidents appeared to be motivated by the inmate's status lesbian, gay, bisexual, transgender, or intersex identification status. However, there is a section within the form that allows for such analysis. A review of the documentation noted that the review team utilizes this space to note various motivations that are not specifically designated on the form. In fact, it was noted that this section was utilized to notate specific motivations in two separate instances that fall under the "other group dynamics" category in the standard. This is further supported by incident review team member interviews who indicated that the inmate's status or perceived status is considered during the incident review process. Based on the above, the facility has demonstrated substantial compliance with provision 115.86(d).

Standard 115.87: Data collection

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

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*)

Instructions for Overall Compliance Determination Narrative

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

Documentation:

- *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*
- *Executive Directive OSPS.020.0027 PREA Investigations – Tracking and Review*
- *Department of Public Safety & Correctional Services Prison Rape Elimination Act Annual Report 2017*
- *Department of Public Safety & Correctional Services Prison Rape Elimination Act Annual Report 2016*
- *Survey of Sexual Victimization, 2017*
- *Maryland Department of Corrections Website*

Interviews:

- None

Site Review:

- None

115.87(a) and (c)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.87(a) and (c) verbatim and uses the term “Department” in place of the term “Agency.” *Executive Directive OSPS.020.0027 PREA Investigations – Tracking and Review* section .05A states, “The Department’s Internal Investigative Division (IID) is the primary investigative body for all PREA related allegations and shall collect and maintain data regarding PREA related criminal

and administrative investigations, which are required to be reported to IID.” Section .05B states IIU shall, “(1) Uniformly collect and maintain data for each reported allegation of sexual abuse at correctional facility under the authority of the Department that, at a minimum, is necessary to respond to data reporting required by the Survey of Sexual Violence conducted by the Department of Justice.” Collectively, these policies guide agency practice regarding data collection efforts.

The PREA and PBMS combined case tracking demonstrates the agency does have tracking mechanisms in place to capture the required data. A review of this data noted that the data collected will assist in the completion of the Survey of Sexual Victimization (SSV). Based on the above, the Maryland Department of Police and Correctional Services has demonstrated compliance with provision 115.87(a) and (c).

115.87(b)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.87(b) verbatim and uses the term “Department” in place of the term “Agency.” *Executive Directive OSPS.020.0027 PREA Investigations – Tracking and Review* section .05C(1) “The PREA Coordinator, or a designee shall: Aggregate the incident-based sexual abuse data annually.” Collectively, these policies guide agency practice regarding data collection efforts.

The agency does aggregate incident-based sexual abuse data at least annually. Annual reports dating back to 2013 are published online and can be readily found on the agency’s website. A review of the Department of Public Safety & Correctional Services Prison Rape Elimination Act Annual Report 2017 and Department of Public Safety & Correctional Services Prison Rape Elimination Act Annual Report 2016 noted incident-based sexual abuse data was aggregated at least annually.

Based on the above, the Department of Police and Correctional Services has demonstrated compliance with provision 115.87(b).

115.87(d)

The Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual states the language of provision 115.87(d) verbatim and uses the term “Department” in place of the term “Agency.” *Executive Directive OSPS.020.0027 PREA Investigations – Tracking and Review* section .03B(2) requires the PREA coordinator or designee to maintain, review, and collect data as needed from all available incident-based documents, including reports, investigative files, and sexual abuse incident reviews. Collectively, these policies guide agency practice regarding data collection efforts.

Investigation documents are maintained with the agency’s IIU division. Contact with the IIU division in order to request additional investigation documents verified that this information is being warehoused by IIU. Based on the above, the Maryland Department of Police and Correctional Services has demonstrated compliance with provision 115.87(d).

115.87(e)

The Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual states the language of provision 115.87(e) verbatim and uses the term “Department” in place of the term “Agency.” *Executive Directive OSPS.020.0027 PREA Investigations – Tracking and Review* section .03B states, “The Department shall uniformly collect accurate data for every allegation of sexual abuse from each correctional facility under the authority of the Department to assess and improve effectiveness of sexual abuse prevention, detection and responsiveness.” Collectively, these policies guide agency

practice regarding data collection efforts.

The Maryland Department of Public Safety and Correctional Services (MDPSCS) contracts with "Threshold, Inc." for its pre-release services. The agency does aggregate incident-based sexual abuse data for "Threshold, Inc." at least annually. Annual reports dating back to 2013 contained aggregated data for "Threshold, Inc." These annual reports are published online and can be found on the agency website. Based on the above, the Maryland Department of Police and Correctional Services has demonstrated compliance with provision 115.87(e).

115.87(f)

The Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual states the language of provision 115.87(f) verbatim and uses the term "Department" in place of the term "Agency." *Executive Directive OSPS.020.0027 PREA Investigations – Tracking and Review* section .03B states, "The IID shall: (4) By June 30 of each calendar year, report sexual violence data from the previous calendar year to the Department of Justice." Collectively, these policies guide agency practice regarding data collection efforts.

A copy of the most recent *Survey of Sexual Victimization, 2017* was provided and reviewed. Based on the above, the Maryland Department of Police and Correctional Services has demonstrated compliance with provision 115.87(f).

Recommendations:

- None

Corrective Action:

- None

Standard 115.88: Data review for corrective action

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

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*)

Instructions for Overall Compliance Determination Narrative

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

Documentation:

- *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*
- *Executive Directive OSPS.020.0027 PREA Investigations – Tracking and Review*
- *Department of Public Safety & Correctional Services Prison Rape Elimination Act Annual Report 2017*
- *Department of Public Safety & Correctional Services Prison Rape Elimination Act Annual Report 2016*
- *Maryland Department of Corrections Website*

Interviews:

- Agency head designee
- PREA coordinator
- PREA compliance manager

Site Review:

- None

115.88(a)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.88(a) verbatim and uses the term “Department” in place of the term “Agency.” *Executive Directive OSPS.020.0027 PREA Investigations – Tracking and Review* section .05C(3) states the PREA coordinator or designee shall, “Ensure that all aggregated sexual abuse data is included in an annual report that: (a) Includes an assessment of the Department’s sexual abuse prevention, detection, and response policies, practices, and training; (b) If applicable, identifies Department-wide problem areas or problems within specific correctional facilities (c) Is used to facilitate corrective action at the Department and correctional facility levels; (d) Compares the current calendar year’s data and activities with that available from previous years; (e) Assesses the Department’s progress in addressing sexual abuse;” with regard to data review for corrective action. Collectively, these policies guide agency practice regarding data review for corrective action.

The agency does aggregate incident-based sexual abuse data at least annually. Annual reports dating back to 2013 are published on the agency website and readily available for review. A review of the Department of Public Safety & Correctional Services Prison Rape Elimination Act Annual Report 2017 and Department of Public Safety & Correctional Services Prison Rape Elimination Act Annual Report 2016 does list aggregated incident-based sexual abuse and sexual harassment data for every facility under the jurisdiction of the Maryland Department of Public Safety and Correctional Services.

The report itself contains corrective action measures taken by the agency. These measures include an emphasis on PREA standards during the conduct of pre-service and in-service training. It was also noted that PREA compliance manager training was held. PREA implementation was noted as the focus of these training sessions. Additionally, in an effort to reduce allegations arising out of strip searches, the agency has implemented strip search protocol that informs inmates of the proper conduct of a strip search.

Interviews indicate that every level is involved in the collection, review, and analysis of data. At the agency level, the agency head designee reported that monthly meetings are held. The focus of these meetings is the reduction of violence (includes sexual abuse or sexual harassment) agency wide. During these meetings data is reviewed and recommendations are made relative to any known issues. The PREA coordinator reports that data is collected and compiled at year end. The data is reviewed by both the PREA Coordinator and the Deputy Secretary. Upon review the agency will attempt to resolve any identified issues. The facility PREA compliance manager indicates that data is collected and reviewed at the facility level to ensure compliance.

Based on the above, the Maryland Department of Police and Correctional Services has demonstrated compliance with provision 115.88(a).

115.88(b)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.88(b) verbatim and uses the term “Department” in place of the term “Agency.” *Executive Directive OSPS.020.0027 PREA Investigations – Tracking and Review* section .05C(3)(d)-(e) states the PREA coordinator or designee shall, “Ensure that all aggregated sexual abuse data is included in an annual report that: (d) Compares the current calendar year’s data and activities

with that available from previous years; (e) Assesses the Department's progress in addressing sexual abuse;" with regard to data review for corrective action." Collectively, these policies guide agency practice regarding data review for corrective action.

The agency does aggregate incident-based sexual abuse data at least annually. Annual reports dating back to 2013 are published on the agency website and are readily available for review. A review of the Department of Public Safety & Correctional Services Prison Rape Elimination Act Annual Report 2017 and Department of Public Safety & Correctional Services Prison Rape Elimination Act Annual Report 2016 does compare current year data with data from prior years. A review of the agency's most recent report revealed that several steps have been taken to comply with PREA in general. These efforts include updates to policy, implementation of internal compliance audits performed by the Office of Inspector General, and efforts to reduce allegations related to the conduct of strip searches.

The report includes an assessment of the department's overall progress towards the reduction of incidents of sexual misconduct. This analysis provides insight into overall incident reporting since the implementation of the standards in 2012. A review noted that early in implementation, the department experienced significant yearly increases in incident reporting. However, more recently the department has indicated that the number of reported incidents has started to level off. The report also provides insight into what the department has planned for future implementation. The report indicates that the department intends to complete contracts and agreements with outside victim advocacy organizations to provide services for inmate victims; continue participation in the interstate auditing agreement; produce an inmate education video with information that is unique to Maryland correctional facilities; complete a comprehensive PREA Manual for use in every facility; and complete a successful audit at the Youth Detention Facility during its second year of operation. The agency also intends to complete a training program for staff working with youthful offenders; provide custom PREA handbooks to every staff member who has contact with inmates; and provide funding to the IIU for additional equipment and supplies to improve investigative capabilities. During the audit it was noted that some of these projects have already been completed.

Based on the above, the Maryland Department of Police and Correctional Services has demonstrated compliance with provision 115.88(b).

115.88(c)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.88(c) verbatim and uses the term "Department" in place of the term "Agency." *Executive Directive OSPS.020.0027 PREA Investigations – Tracking and Review* section .05C(3)(f) requires the annual report be approved by the secretary of the department and made available to the public through the department's website. Collectively, these policies guide agency practice regarding data review for corrective action.

Annual reports dating back to 2013 are available on the agency website and are readily available for review. The Department of Public Safety & Correctional Services Prison Rape Elimination Act Annual Report 2017 and Department of Public Safety & Correctional Services Prison Rape Elimination Act Annual Report 2016 were reviewed. Annual reports were signed by the PREA coordinator, deputy secretary, and secretary. These reports are easily accessible and can be found through a basic internet search.

Based on the above, the Maryland Department of Police and Correctional Services has demonstrated compliance with provision 115.88(c).

115.88(d)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.88(d) verbatim and uses the term “Department” in place of the term “Agency.” *Executive Directive OSPS.020.0027 PREA Investigations – Tracking and Review* section .05C(3)(f)(i) regarding the annual report specifies that information that would present a clear and specific threat to the safety and security of a correctional facility be redacted prior to publishing the report. Collectively, these policies guide agency practice regarding data review for corrective action.

The PREA coordinator reported that it is not necessary to redact any information from the annual report. A review of the annual report did not indicate any personally identifying information or information that would present a clear and specific threat to the safety and security of the institution. Therefore, redaction of such material is unnecessary.

Based on the above, the Maryland Department of Police and Correctional Services has demonstrated compliance with provision 115.88(d).

Recommendations:

- None

Corrective Action:

- None

Standard 115.89: Data storage, publication, and destruction

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

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*)

Instructions for Overall Compliance Determination Narrative

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

Documentation:

- *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual*
- *Executive Directive OSPS.020.0027 PREA Investigations – Tracking and Review*
- *Department of Public Safety & Correctional Services Prison Rape Elimination Act Annual Report 2017*
- *Department of Public Safety & Correctional Services Prison Rape Elimination Act Annual Report 2016*
- *Maryland Department of Corrections Website*

Interviews:

- Agency head designee
- PREA coordinator
- PREA compliance manager

Site Review:

- None

115.89(a)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.89(a) verbatim and uses the term "Department" in place of the term "Agency." *Executive Directive OSPS.020.0027 PREA Investigations – Tracking and Review* section .05C(4) regarding the PREA coordinator or designee shall, "Securely maintain incident-based and aggregate data ensuring only authorized personnel have access to the information." Likewise, .05B requires the IIU to collect and maintain data for each reported allegation of sexual abuse at a correctional facility under the authority of the Department. Generally, data is maintained by IIU who in turn provides information to the department PREA coordinator who reports to the deputy secretary. IIU conducts all

criminal and administrative PREA allegations within DPSCS. Therefore, IIU's control over data collection and maintenance is appropriate. Sharing this information with the department PREA coordinator, who in turn, will share this information with decision makers at the administrative level is also appropriate.

The PREA coordinator confirmed that data is collected and maintained by IIU. This data is also shared between IIU, the department PREA coordinator, and administrative decision makers.

Based on the above, the Maryland Department of Police and Correctional Services has demonstrated compliance with provision 115.89(a).

115.89(b)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.89(b) verbatim and uses the term "Department" in place of the term "Agency." *Executive Directive OSPS.020.0027 PREA Investigations – Tracking and Review* section .05C(3)(f) guides departmental practice regarding publishing all aggregated sexual abuse data included in the annual report to the department's public website annually.

Annual reports are published online and can be found on the agency website. Annual reports dating back to 2013 are available for review. The Department of Public Safety & Correctional Services Prison Rape Elimination Act Annual Report 2017 and Department of Public Safety & Correctional Services Prison Rape Elimination Act Annual Report 2016 were reviewed. These reports include aggregated sexual abuse data for all facilities under direct control or contracted by DPSCS.

Policy requires the annual report to be published on the agency website. A review of the documentation and internet search verified that the report is posted. Based on the above, the Maryland Department of Police and Correctional Services has demonstrated compliance with provision 115.89(b).

115.89(c)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.89(c) verbatim and uses the term "Department" in place of the term "Agency." *Executive Directive OSPS.020.0027 PREA Investigations – Tracking and Review* section .05C(3)(f)(ii) regarding the annual report requires that personal identifiers be redacted prior to publishing the annual report. Collectively, these policies guide agency practice regarding data storage, publication, and destruction.

The PREA coordinator reports that the annual report contains no personally identifying information. Therefore, it is unnecessary to redact any information from the annual report. A review of the annual reports for 2016 and 2017 did not indicate the presence of any personally identifying information.

Policy requires the removal of personally identifying information from the annual report. A review of the annual reports noted no personally identifying information contained within the reports. Based on the above, the department has demonstrated substantial compliance with provision 115.89(c).

115.89(d)

The *Department of Public Safety and Correctional Services – Prison Rape Elimination Act Audit Manual* states the language of provision 115.89(d) verbatim and uses the term "Department" in place of the term "Agency." *Executive Directive OSPS.020.0027 PREA Investigations – Tracking and Review* section

.05C(5) requires the PREA coordinator or designee to, "Maintain sexual abuse data for at least 10 years from the date received."

The *Department of Public Safety & Correctional Services Prison Rape Elimination Act Annual Report 2017* and the *Department of Public Safety & Correctional Services Prison Rape Elimination Act Annual Report 2016* were reviewed. These reports did contain information regarding allegations from prior years for all facilities under the direct authority or contracted with the DPSCS.

Policy requires data maintenance for at least 10 years from the date received. A review of the audit documentation indicates that data is maintained in accordance with the standard requirements. Based on the above, the Maryland Department of Police and Correctional Services has demonstrated compliance with provision 115.89(d).

Recommendations:

- None

Corrective Action:

- None

AUDITING AND CORRECTIVE ACTION

Standard 115.401: Frequency and scope of audits

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

115.401 (a)

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

115.401 (b)

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

115.401 (h)

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

115.401 (i)

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

115.401 (m)

- Was the auditor permitted to conduct private interviews with 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*)

Instructions for Overall Compliance Determination Narrative

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

115.401(a)(b)(h)(i)(m) and (n)

All facilities under direct authority and contracted with the DPSCS were audited during the prior audit cycle. Currently, the DPSCS is in the third year of the second audit cycle. The department oversees 22 facilities. As of this report, two thirds of these facilities have been audited.

During the on-site audit, the auditor was able to tour all areas of the facility. Additionally, the auditor was able to request and receive relevant documents throughout the audit process. The facility has been very responsive and accommodating to the needs of the auditor.

Furthermore, the auditor was able to interview inmates in a setting that provided sufficient privacy. Most interviews were conducted in a closed office setting that allowed staff to maintain visual security and

allow inmates to provide information without being overheard. Likewise, inmates were able to send confidential correspondence to the auditor without issue. The auditor did receive three pieces of inmate correspondence from two different inmates housed at PATX.

Based on the above, the facility has demonstrated substantial compliance with Standards 115.401.

Standard 115.403: Audit contents and findings

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

115.403 (f)

- The agency has published on its agency website, if it has one, or has otherwise made publicly available, all Final Audit Reports 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*)

Instructions for Overall Compliance Determination Narrative

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

This audit was conducted in accordance with a multi-state consortium agreement where the auditing agency conducts audits within the audited agency. A review of the department's website noted final reports conducted by this agency. To date, all final reports have been posted.

Based on the above, the facility has demonstrated compliance with Standard 115.403(f).

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.

Auditor Instructions:

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

Matthew Silsbury

01/06/2019

Auditor Signature

Date

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

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