

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

Interim Final

Date of Report September 4, 2019

Auditor Information

Name: Amy Fairbanks	Email: fairbaa@comcast.net
Company Name: AJF, Correctional Consulting & Auditing, L.L.C.	
Mailing Address: 3105 S. Martin Luther King Jr. Blvd #236	City, State, Zip: Lansing, MI 48910
Telephone: (517) 303-4081	Date of Facility Visit: July 15 & 16, 2019

Agency Information

Name of Agency: Berkshire County Sheriff Department	Governing Authority or Parent Agency (If Applicable): Commonwealth of Massachusetts
Physical Address: 467 Cheshire Road	City, State, Zip Pittsfield, MA 01201
Mailing Address:	City, State, Zip:
Telephone: (413) 443-7220	Is Agency accredited by any organization? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
The Agency Is:	<input type="checkbox"/> Military <input type="checkbox"/> Private for Profit <input type="checkbox"/> Private not for Profit <input type="checkbox"/> Municipal <input type="checkbox"/> County <input checked="" type="checkbox"/> State <input type="checkbox"/> Federal

Agency mission: The primary mission of the Berkshire County Sheriff's Office is to "Protect the public from criminal offenders by operating a safe, secure and progressive correctional facility while committing to crime prevention awareness in the community". We accomplish our mission by:

MISSION STATEMENT GOALS

Maintaining a safe and secure direct supervision correctional facility in compliance with national standards, laws and judicial decisions.

Exploring innovative and cost effective alternatives to incarceration, including day reporting, re-entry, and aftercare programs that reduce recidivism, promote public safety, and improve the effectiveness of the Berkshire County Sheriff's Office

Pursuing the fair and equitable treatment of inmates while respecting the rights and dignity of all persons (i.e., CORI, Victim/Witness Program, ADA, PREA).

Creating a just and fair environment that encourages positive behavior from offender (i.e., Direct Supervision Management, Treatment Environment).

Promoting education, treatment and social responsibility in an effort to successfully re-integrate criminal offenders to society (i.e., High School Equivalency Certificate, Substance Abuse, Job Training, Life Skills, TRIAD and Child ID Program and Parenting Programs).

Developing public safety initiatives, volunteer and support programs for the prevention of criminal activity and providing the community with pertinent information (i.e., DARE, Drug and Alcohol Awareness Program, Public Information Initiatives).
 Seeking the highest level of professionalism, through support, motivation and training for all employees with accountability to the public we serve.
 Safeguarding the assets of the Commonwealth of Massachusetts allocated to Berkshire County Sheriff's Office.
 Where feasible, improve energy efficiency throughout physical plant.

Agency Website with PREA Information: www.bcsoma.org

Agency Chief Executive Officer

Name: Thomas Bowler	Title: Sheriff
Email: thomas.bowler@sbd.state.ma.us	Telephone: (413) 443-7220 ext. 1102

Agency-Wide PREA Coordinator

Name: Daniel J. Sheridan	Title: Assistant Superintendent
Email: Daniel.sheridan@sbd.state.ma.us	Telephone: (413) 443-7220 ext. 1402
PREA Coordinator Reports to: Superintendent/Special Sheriff John J. Quinn, Jr.	Number of Compliance Managers who report to the PREA Coordinator 0

Facility Information

Name of Facility: Berkshire County Jail and House of Correction

Physical Address: 467 Cheshire Road Pittsfield, MA 01201

Mailing Address (if different than above): [Click or tap here to enter text.](#)

Telephone Number (413) 443-7220

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 checked="" type="checkbox"/> County	<input type="checkbox"/> State	<input type="checkbox"/> Federal
Facility Type:	<input checked="" type="checkbox"/> Jail	<input type="checkbox"/> Prison	

Facility Mission: See agency mission statement

Facility Website with PREA Information www.bcsoma.org

Warden/Superintendent

Name: John J. Quinn	Title: Superintendent
----------------------------	------------------------------

Email john.quinn@sdb.state.ma.us		Telephone: (413) 443-7220 ext. 1104	
Facility PREA Compliance Manager			
Name: Daniel J. Sheridan		Title: Assistant Superintendent	
Email: daniel.sheridan@sdb.state.ma.us		Telephone: (413) 443-7220 ext. 1402	
Facility Health Service Administrator			
Name: Nancy Pieraccini		Title: Health Services Administrator	
Email: nancy.pieraccini@sdb.state.ma.us		Telephone: (413) 443-7220 ext. 1500	
Facility Characteristics			
Designated Facility Capacity: 544		Current Population of Facility: 173	
Number of inmates admitted to facility during the past 12 months			908
Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 30 days or more:			594
Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 72 hours or more:			383
Number of inmates on date of audit who were admitted to facility prior to August 20, 2012:			0
Age Range of Population:	Youthful Inmates Under 18: 0	Adults:	
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:			7 months
Facility security level/inmate custody levels:			Minimum, medium, maximum
Number of staff currently employed by the facility who may have contact with inmates:			233
Number of staff hired by the facility during the past 12 months who may have contact with inmates:			17
Number of contracts in the past 12 months for services with contractors who may have contact with inmates:			3
Physical Plant			
Number of Buildings: 1		Number of Single Cell Housing Units: 2	
Number of Multiple Occupancy Cell Housing Units:		8	
Number of Open Bay/Dorm Housing Units:		0	
Number of Segregation Cells (Administrative and Disciplinary):		36	
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.):			
There are cameras strategically located that monitor operations at the facility.			

Medical	
Type of Medical Facility:	Ambulatory Care Clinic with a medical Housing unit
Forensic sexual assault medical exams are conducted at:	Local Hospital
Other	
Number of volunteers and individual contractors, who may have contact with inmates, currently authorized to enter the facility:	320
Number of investigators the agency currently employs to investigate allegations of sexual abuse:	8

Audit Findings

Audit Narrative

On July 15-16, 2019 an audit was conducted at the Berkshire County Jail and House of Correction to determine compliance with the Prison Rape Elimination Act (PREA) standards finalized August 2012. The auditor was actively involved in on-site audit activities from 8:00am to 6:30pm Monday, and 6:30am to 4:00pm Tuesday. The facility was previously audited; a final report dated April 2017 reflected compliance with all standards. There were no barriers to completing the audit. The auditor was selected to complete the audit by responding to an informational request from the agency, forwarding a proposed contract, and being awarded the contract.

The facility reported that posters announcing the audit with the auditor's name and address were placed throughout the facility on June, 2019, six weeks prior to the audit (English and Spanish). They were posted in English and Spanish, noting that correspondence would be confidential as defined as follows: "All correspondence and disclosures during interviews with the designated auditor are confidential and will not be disclosed unless required by law. There are exceptions when confidentiality must be legally broken. Exceptions include, but are not limited to the following:

- if the person is an immediate danger to her/himself or others (e.g. suicide or homicide);
- allegations of suspected of child abuse, neglect or maltreatment;
- in legal proceedings where information has been subpoenaed by a court of appropriate jurisdiction. "

Photographs showing the posted PREA audit notice in various areas throughout the jail (e.g. all housing units, intake, law library, lobby, etc.) were sent to the auditor upon posting and confirmed the notices were posted in a timely manner. Posters announcing the audit were noticeable throughout in the facility. No letters were received in response to this announcement prior to the commencement of the audit.

The Pre-Audit Questionnaire (PAQ) and corresponding documentation for each standard was received in June 2019, through a password protected thumb drive mailed to the auditor. The PAQ was reviewed and determined to be complete.

Documents reviewed for this audit received five weeks prior to the audit through the password protected thumb drive include the Pre-audit questionnaire (PAQ), policies/procedures, contracts/Memorandum of Understanding (MOU), housing risk examples, accreditation reports, external auditing reports, population reports, training curriculums, staff training records, contract/volunteer training records, meeting minutes, sexual abuse incident review meeting minutes, and sexual abuse and harassment data.

Prior to the audit, a search on the internet was conducted. The annual reports for the Agency and the prior audit report were available. There were no news articles pertaining to the jail. The Auditor also reviewed the State's laws regarding juveniles, vulnerable adults, and mandatory reporting requirements. The Auditor notified the Prisoners' Legal Services (PLS) of the upcoming audits by email. The District Attorney's office is the agency who will accept reports of allegations of sexual abuse, sexual harassment anonymously and provides immediate transmission. The Elizabeth Freeman Center (EFC) provides advocacy services and emotional support services via a free confidential phone call accessible to the offender population phones.

A tentative schedule was sent to the facility one week prior to the audit. A brief formal meeting was held with the PREA Coordinator, Executive staff and the auditor the morning of the first day of the audit. The following items were discussed: purpose of audit, goals and expectations. Tentative schedules were developed regarding the tour, interviews and review of additional documentation. Rosters of staff and inmates were provided; a list of random and targeted interviews was developed.

A complete tour of the facility was conducted on July 15, 2019. The following areas and operations were visited and observed: inmate living areas, medical operations, intake operations/holding cells, laundry services, library/education areas, chapel, programming areas, visiting area, and food service operations. All areas of the facility were visited that have inmate access. During the tour, the following was observed: camera monitoring, posters announcing the audit, PREA posters continually educating the population and staff regarding PREA, notices informing inmates how to contact the District Attorney's office and the Elizabeth Freeman Center (ELC), blind spots (also addressed in the facility vulnerability assessment), supervision practices, availability of grievance forms and the process for filing a grievance.

Formal interviews were conducted with the following: Sheriff, Special Sheriff/ Superintendent, PREA Coordinator, medical staff (Health Services Administrator, Mental Health Director, two nurses), Director of Human Resources, nine corrections officers/sergeants from all areas of the facility and each shift to include one from the restrictive housing unit, one case manager (who completed the follow up assessment), the chaplain, one volunteer, two Shift Supervisors, one investigator (provide notifications to inmates of investigation results, participates in PREA Incident reviews), one unit manager/captain (conducts retaliation monitoring and conducts inmate PREA education), and one intake officer (who completes risk assessments).

A total of 21 inmate interviews were conducted. Targeted inmate interviews included the following:

- one with limited English (staff interpreter utilized)
- two self-admitted as homosexual
- three who self-reported as having prior victimization
- two who had been involved in an investigation alleging sexual abuse or sexual harassment
- one inmate who required assistive devices for mobility
- two hard of hearing inmates
- one had high mental health needs
- one inmate in restrictive housing

Inmate interviews were held in the private interview rooms located in each housing unit pod. Inmates were interviewed from each housing unit. No youthful offenders are housed at this facility. No transgender/intersex inmates were housed at the facility at the time of the audit. No detainees from the lock up operation were available during the audit to interview.

While on-site, additional random documents were requested or reviewed and are noted throughout the report. This included a log of investigations from January 2018 to present and assessments of grievances filed for the same time period. Camera monitoring operations were also examined. On-site documentation review included personnel files, inmate/resident files, investigations, medical/mental health files, and training records.

Investigations are conducted by eight staff who has received specialized training. Investigations from the previous 12 months were reviewed, there were seventeen (17) total. Eight (8) were determined to not meet the definition of sexual abuse or sexual harassment in accordance with the definitions established by the Department of Justice. The remaining nine (9) occurred as follows:

One (1) staff on inmate sexual abuse allegation
One (1) staff on inmate sexual harassment allegation
Six (6) inmate on inmate sexual abuse allegations
One (1) inmate on inmate sexual harassment allegation
Zero retaliation allegations

Four allegations were deemed substantiated, three were deemed unsubstantiated, two were deemed unfounded. The auditor reviewed the appropriate notifications and monitoring retaliation documentation where it was warranted. Preponderance of evidence is used to support finds of substantiated or unfounded.

Any and all allegations that may appear to meet the definition are investigated until the investigation established that it was not a "PREA" incident. During the past 12 months, no allegations were referred for criminal prosecution. However, prior to the 12 month period, an investigation was referred for prosecution and to the licensing board. This documentation was readily provided to the auditor for review.

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

Post-Audit Phase: The documents requested and received were reviewed, interview notes, observation notes and documentation were analyzed and a final report prepared. The auditor made contact with the Director for the EFC to discuss services rendered by this organization to the facility.

Facility Characteristics

The Berkshire County Jail and House of Corrections is located in Pittsfield, Massachusetts. This facility houses both sentenced and pretrial inmates males who are under the jurisdiction of the Berkshire County Sheriff's Office in addition to functioning as the Regional Lock Up facility for adjoining municipalities. At this Regional Lock-Up, males and females are held typically up to 24 hours, however during weekends and holidays it may be up to 72 hours. The facility consists of one main building that has all operations pertaining to the Jail and House of Corrections. On the grounds, additional buildings include a warehouse, greenhouse, barn, hydro/aquaponics facility (under construction). It is located on 25 acres of land three miles east of the city limits. It was built and completed in 2001 to replace operations at the Second Street Jail which was built in the 1800s. Count on the first day of the audit was 212. There are eight housing pods (one was not occupied) which house inmates. Staff is assigned each pod providing direct supervision. The intake unit has five cells (single and multiple occupancy cells). Programming areas include a gymnasium, weight training area, education classes, library and chapel. Programming opportunities include the following: religious programming, educational programming, Alcoholics Anonymous (AA) and Narcotics Anonymous (NA), communication skills, re-entry programming and working on the facility garden or with the facility horses. All staff is BCSD employees with the exception of possibly per diem nurses, dental staff and other miscellaneous staff.

Summary of Audit Findings

Number of Standards Exceeded: 5 [Click or tap here to enter text.](#)

§115.21 – Evidence Protocol and Forensic Medical Examinations §115.22 – Policies to Ensure Referrals of Allegations for Investigations, §115.35 – Specialized training: Medical and mental health care §115.41 – Screening for Risk of Victimization and Abusiveness §115.71 – Criminal and Administrative Agency Investigations.

Number of Standards Met: 40

§115.11 - Zero tolerance of sexual abuse and sexual harassment; PREA coordinator §115.12 - Contracting with other entities for the confinement of inmates §115.13 – Supervision and Monitoring §115.14 – Youthful Inmates §115.15 – Limits to Cross-Gender Viewing and Searches §115.16 – Inmates with Disabilities and Inmates who are Limited English Proficient

§115.17 – Hiring and Promotion Decisions §115.18 – Upgrades to Facilities and Technology
 §115.33 – Inmate Education §115.34 – Specialized Training: Investigations §115.42 – Use of Screening Information §115.43 – Protective Custody §115.51 – Inmate Reporting §115.52 – Exhaustion of Administrative Remedies §115.53 – Inmate Access to Outside Confidential Support Services §115.54 – Third-Party Reporting §115.61 – Staff and Agency Reporting Duties §115.62 – Agency Protection Duties §115.63 – Reporting to Other Confinement Facilities §115.64 – Staff First Responder Duties §115.65 – Coordinated Response §115.66 – Preservation of ability to protect inmates from contact with abusers §115.67 – Agency protection against retaliation §115.68 – Post-Allegation Protective Custody §115.72 – Evidentiary Standard for Administrative Investigations §115.73 – Reporting to Inmate §115.76 – Disciplinary sanctions for staff §115.77 – Corrective action for contractors and volunteers §115.78 – Disciplinary sanctions for inmates §115.81 – Medical and mental health screenings; history of sexual abuse §115.82 – Access to emergency medical and mental health services §115.83 – Ongoing medical and mental health care for sexual abuse victims and abusers §115.86 – Sexual abuse incident reviews §115.87 – Data Collection §115.88 – Data Review □ for Corrective Action §115.89 – Data Storage, □ Publication, and Destruction □ §115.401 – Frequency & Scope of Audits §115.403

Number of Standards Not Met: 0

Summary of Corrective Action (if any)

115.65 The facility was asked to revise their response plan to specify that the victim is requested (rather than required) to not take action that would destroy evidence This was immediately corrected and provided to the auditor prior to leaving the facility.

115.88 The facility was asked to provide more detail for their annual report regarding comparison to previous years. This was immediately enhanced and posted on the website. In addition, the auditor recommending separating the confidential rape counseling information from the PREA poster advising inmates how to report PREA incidents for investigations. This was immediately done and copies of the revised posters were supplied to the auditor.

PREVENTION PLANNING

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

115.11 (a)

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

115.11 (b)

- Has the agency employed or designated an agency-wide PREA Coordinator? Yes No

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

115.11 (c)

- If this agency operates more than one facility, has each facility designated a PREA compliance manager? (N/A if agency operates only one facility.) Yes No NA
- Does the PREA compliance manager have sufficient time and authority to coordinate the facility's efforts to comply with the PREA standards? (N/A if agency operates only one facility.)
 Yes No NA

Auditor Overall Compliance Determination

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

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

BCSO-017R-A Prevention of Sexual Abuse and Sexual Harassment of Inmates is the consolidated policy that addresses all aspects of the facilities efforts to prevent, detect, and respond to sexual abuse and sexual harassment. It specifically states the following, *The Berkshire County Sheriff's Office (BCSO) has a ZERO TOLERANCE policy prohibiting sexual abuse, sexual harassment or any other form of sexual misconduct involving an inmate, a staff member, a visitor, a contractor or a volunteer.*

It is the policy of the BCSO that sexual conduct between inmates, whether consensual or not, is not permitted under any circumstances. Similarly, any conduct of a sexual nature between an inmate and any other person (e.g. a staff member, contractor, visitor, vendor, volunteer or any other person coming into contact with an inmate in BCSO custody) is strictly prohibited. This policy applies to all inmates (pre-arraignment and post-arraignment detainees, sentenced inmates, civil commitments or any other person committed to our care and custody or whom

we are required by Court to transport). Compliance with this policy is essential to a safe and secure correctional environment.

Under Massachusetts law, inmates are by law deemed incapable of consenting to sex (intentional, inappropriate contact of a sexual nature) with any person who is employed by or contracts with a correctional facility. Engaging in sexual relations with an inmate is a FELONY under state law punishable by up to five years in state prison and/or \$10,000 fine for each such act. M.G.L. c. 268, 21A.

Retaliation against an inmate who refuses to submit to sexual advances, or any person who reports sexual misconduct or who cooperates with any investigation into allegations of sexual misconduct is also prohibited.

The BCSO employs an upper-level, agency-wide PREA Coordinator to oversee agency efforts to comply with the PREA Standards in all of its facilities.

The auditor interviewed the PREA Coordinator. He assured the auditor he has sufficient time and authority to develop, implement, and oversee agency efforts to comply with the PREA standards in all of its facilities. The PAQ indicates that the PREA Coordinator reports directly to the Special Sheriff/Superintendent in all matters relating to compliance with this law. The interview conducted with the Sheriff additionally supported this. The PREA Coordinator is able to oversee the facility's compliance by conducting regular meetings, overseeing all investigations and continuous communication with the same members of the PREA Incident Review Team. At this meeting all activities related to compliance are discussed and reviewed.

The auditor gave this facility a finding of compliance based on the following: After reviewing the documentation prior to the on-site audit, conducting the on-site audit with the PREA Coordinator and supporting teams' direct involvement and support (observations), the documentation (policy) and interviews with the Sheriff, Superintendent, and PREA Coordinator, the auditor finds sufficient evidence to support a finding of compliance with this standard.

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

115.12 (a)

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

115.12 (b)

- Does any new contract or contract renewal signed on or after August 20, 2012 provide for agency contract monitoring to ensure that the contractor is complying with the PREA standards? (N/A if the agency does not contract with private agencies or other entities for the confinement

of inmates OR the response to 115.12(a)-1 is "NO".) Yes No NA

Auditor Overall Compliance Determination

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

The standard has the following requirements: (a) A public agency that contracts for the confinement of its inmates with private agencies or other entities, including other government agencies, shall include in any new contract or contract renewal the entity's obligation to adopt and comply with the PREA standards. (b) Any new contract or contract renewal shall provide for agency contract monitoring to ensure that the contractor is complying with the PREA standards.

It was reported by the Sheriff, Superintendent and PREA Coordinator that this agency does not contract for the confinement of inmates with private agencies or other entities.

The auditor gave this facility a finding of compliance based on the following: Policy supports the requirements of the standard such that in the event that they do contract with another agency, the requirements will need to be met. During the audit process, formal and informal conversations and observations gave the auditor no reason to dispute this.

Standard 115.13: Supervision and monitoring

115.13 (a)

- Does the agency ensure that each facility has developed a staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring, to protect inmates against sexual abuse? Yes No
- Does the agency ensure that each facility has documented a staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring, to protect inmates against sexual abuse? Yes No
- Does the agency ensure that each facility's staffing plan takes into consideration the generally accepted detention and correctional practices in calculating adequate staffing levels and determining the need for video monitoring? Yes No
- Does the agency ensure that each facility's staffing plan takes into consideration any judicial findings of inadequacy in calculating adequate staffing levels and determining the need for video monitoring? Yes No
- Does the agency ensure that each facility's staffing plan takes into consideration any findings of inadequacy from Federal investigative agencies in calculating adequate staffing levels and

determining the need for video monitoring? Yes No

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

115.13 (b)

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

115.13 (c)

- In the past 12 months, has the facility, in consultation with the agency PREA Coordinator, assessed, determined, and documented whether adjustments are needed to: The staffing plan established pursuant to paragraph (a) of this section? Yes No

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

115.13 (d)

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

Auditor Overall Compliance Determination

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

The standard has the following requirements: (a) The agency shall ensure that each facility it operates shall develop, document, and make its best efforts to comply on a regular basis with a staffing plan that provides for adequate levels of staffing, and, where applicable, video monitoring, to protect inmates against sexual abuse. In calculating adequate staffing levels and determining the need for video monitoring, facilities shall take into consideration: (1) Generally accepted detention and correctional practices; (2) Any judicial findings of inadequacy; (3) Any findings of inadequacy from Federal investigative agencies; (4) Any findings of inadequacy from internal or external oversight bodies; (5) All components of the facility's physical plant (including "blind-spots" or areas where staff or inmates may be isolated); (6) The composition of the inmate population; (7) The number and placement of supervisory staff; (8) Institution programs occurring on a particular shift; (9) Any applicable State or local laws, regulations, or standards; (10) The prevalence of substantiated and unsubstantiated incidents of sexual abuse; and (11) Any other relevant factors. (b) In circumstances where the staffing plan is not complied with, the facility shall document and justify all deviations from the plan. (c) Whenever necessary, but no less frequently than once each year, for each facility the agency operates, in consultation with the PREA coordinator required by § 115.11, the agency shall assess, determine, and document whether adjustments are needed to: (1) The staffing plan established pursuant to paragraph (a) of this section; (2) The facility's deployment of video monitoring systems and other monitoring technologies; and (3) The resources the facility has available to commit to ensure adherence to the staffing plan. (d) Each agency operating a facility shall implement a policy and practice of having intermediate-level or higher-level supervisors conduct and document unannounced

rounds to identify and deter staff sexual abuse and sexual harassment. Such policy and practice shall be implemented for night shifts as well as day shifts. Each agency shall have a policy to prohibit staff from alerting other staff members that these supervisory rounds are occurring, unless such announcement is related to the legitimate operational functions of the facility.

The PAQ states that the average daily population is 207; the staffing plan was predicated on a population of 500. The PAQ indicates that the facility does not deviate from the plan; overtime is used when needed to meet the designated levels.

BCSO-021R Minimum Staff Requirements states the following:

The agency shall ensure that each facility it operates shall develop, document, and make its best efforts to comply on a regular basis with a staffing plan that provides for adequate levels of staffing, and, where applicable, video monitoring, to protect inmates against sexual abuse. In calculating adequate staffing levels and determining the need for video monitoring, facilities shall take into consideration: (1) Generally accepted detention and correctional practices; (2) Any judicial findings of inadequacy; (3) Any findings of inadequacy from Federal investigative agencies; (4) Any findings of inadequacy from internal or external oversight bodies; (5) All components of the facility's physical plant (including "blind-spots" or areas where staff or inmates may be isolated); (6) The composition of the inmate population; (7) The number and placement of supervisory staff; (8) Institution programs occurring on a particular shift; (9) Any applicable State or local laws, regulations, or standards; (10) The prevalence of substantiated and unsubstantiated incidents of sexual abuse; (11) Any other relevant factors (12) In circumstances where the staffing plan is not complied with, the facility shall document and justify all deviations from the plan; (13) Whenever necessary, but no less frequently than once each year, for each facility the agency operates, in consultation with the PREA coordinator required by § 115.11, the agency shall assess, determine, and document whether adjustments are needed to: (14) The staffing plan established pursuant to paragraph (a) of this section; (15) The facility's deployment of video monitoring systems and other monitoring technologies; and (16) The resources the facility has available to commit to ensure adherence to the staffing plan.

The auditor reviewed the staffing plan provided by the facility. It confirms in the plan that BCSD has had no judicial finding of inadequacy, no findings of inadequacy from Federal investigative agencies and no findings of inadequacy from internal or external oversight bodies. The interview with the Sheriff and Superintendent additionally supported this fact. The plan provided a detailed assessment of the composition of the inmate population, number and placement of supervisory staff (with a relief factor established), and institutional programs occurring on a particular shift. The facility also provided a detailed "Vulnerability Assessment" in which all aspects of the facility's areas were reviewed, indicating blind spots – noting where additional cameras would improve supervision. During the tour, the auditor was directed to camera monitoring for the area. The facility is accredited by the American Correctional Association (ACA) and the National Commission on Correctional Health Care (NCCHC) demonstrating the use of sound correctional practices. The facility is also audited in continuous six month cycles by the Massachusetts Department of Correction. The auditor was also provided with Department of Public Health inspections to review. With the passing of Chapter 69 of the Acts of 2018, Criminal Justice Reform Act of Massachusetts, staffing has been considered with the changes resulting from this state law.

BCSO-077R Reporting & Inspections indicates that Shift Reports will be conducted every shift and that supervisory staff conduct a daily patrol that includes weekends and holidays of all areas occupied by inmates. It further states that *Any staff member who announces or otherwise signals or alerts staff to rounds being conducted by a supervisor shall be subject to disciplinary action to an including discharge.*

In order to further evaluate compliance, the auditor requested and received staffing rosters for all three shifts for the 6th day for the last 6 months. These documents further demonstrated compliance, noting no reduction in staffing occurred; there was compliance with the staffing plan.

Interviews with the Sheriff, Superintendent, and the PREA Coordinator confirmed that this staffing plan is developed based on the eleven criteria noted in the standard. Documentation was provided prior to the audit demonstrating rounds. In order to further verify compliance, the auditor requested and observed video evidence and documentation of unannounced rounds for a 24 hour day for July 1, 2019. This video demonstrated unannounced rounds conducted by the supervisors; it further demonstrated that the supervisors spend between ten (10) to fifteen (15) minutes conducting these rounds in each housing unit. Facility logbooks are electronic; review of the documentation along with the video provided evidence that unannounced rounds are occurring. Interviews with supervisory staff (formal and informal) supported that they conduct unannounced rounds by conducting them on different times, different directions. They indicated they are not aware of any incident where staff alerted other staff that they were conducting these rounds. Observations during the audit supported that there is sufficient staffing, providing direct supervision and controlled movement.

The training curriculum addresses that unannounced supervisory rounds will be conducted on each shift. It further reinforces that staff are prohibited from alerting other staff that these rounds are occurring.

Finding of compliance based on the following: The auditor concluded that prevention of sexual abuse and harassment is taken serious at this facility. The observations, interviews, policy, Vulnerability Assessment, staffing plan, randomly requested staff rosters and review of observation of unannounced rounds all demonstrated compliance will all aspects of this standard.

Standard 115.14: Youthful inmates

115.14 (a)

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

115.14 (b)

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

115.14 (c)

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

Auditor Overall Compliance Determination

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

The standard has the following requirements: (a) A youthful inmate shall not be placed in a housing unit in which the youthful inmate will have sight, sound, or physical contact with any adult inmate through use of a shared dayroom or other common space, shower area, or sleeping quarters. (b) In areas outside of housing units, agencies shall either: (1) maintain sight and sound separation between youthful inmates and adult inmates, or (2) provide direct staff supervision when youthful inmates and adult inmates have sight, sound, or physical contact.(c) Agencies shall make best efforts to avoid placing youthful inmates in isolation to comply with this provision. Absent exigent circumstances, agencies shall not deny youthful inmates daily large-muscle exercise and any legally required special education services to comply with this provision. Youthful inmates shall also have access to other programs and work opportunities to the extent possible.

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

The auditor gave this facility a finding of compliance based on the following: The PAQ and all interviews (Sheriff, Superintendent, and PREA Coordinator) support that youthful offenders as defined as under 18 years of age, are not housed at this agency/facility. The PREA policy, supports that this will not occur. During the audit process, formal and informal conversations and observations gave the auditor no reason to dispute this. In addition, the auditor was provided a roster of inmates listed from oldest to youngest which further supported that the youngest inmate housed at this facility was 18 years old.

Standard 115.15: Limits to cross-gender viewing and searches

115.15 (a)

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

115.15 (b)

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

115.15 (c)

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

115.15 (d)

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

115.15 (e)

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

115.15 (f)

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

Auditor Overall Compliance Determination

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

The standard has the following requirement: (a) The facility shall not conduct cross-gender strip searches or cross-gender visual body cavity searches (meaning a search of the anal or genital opening) except in exigent circumstances or when performed by medical practitioners. (b) As of August 20, 2015, or August 20, 2017 for a facility whose rated capacity does not exceed 50 inmates, the facility shall not permit cross-gender pat-down searches of female inmates, absent exigent circumstances. Facilities shall not restrict female inmates' access to regularly available programming or other out-of-cell opportunities in order to comply with this provision. (c) The facility shall document all cross-gender strip searches and cross-gender visual body cavity searches, and shall document all cross-gender pat-down searches of female inmates. (d) The facility shall implement policies and procedures that enable inmates to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks. Such policies and procedures shall require staff of the opposite gender to announce their presence when entering an inmate housing unit. (e) The facility shall not search or physically examine a transgender or intersex inmate for the sole purpose of determining the inmate's genital status. If the inmate's genital status is unknown, it may be determined during conversations with the inmate, by reviewing medical records, or, if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner. (f) The agency shall train security staff in how to conduct cross-gender pat-down searches, and searches of transgender and intersex inmates, in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.

The PAQ indicates that no cross-gender pat searches, strip searches, or body cavity searches have occurred at this facility in the past 12 months. The facility has conducted a strip search by females at the request of a transgender/intersex female inmate (documentation was provided to the auditor).

BCSO-067R Searches addresses the following:

Cross-gender strip searches are not permitted except in exigent circumstances or when performed by medical practitioners. All strip searches shall be documented.

Cross-gender pat searches are not permitted except in exigent circumstances and must be documented.

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

All searches of inmates are to be conducted in a professional manner with as much dignity as possible and by security personnel of the same sex as the inmate, except in an emergency. Inmates who have identified themselves as transgender or intersex shall be asked which gender officer she/she prefers to be searched by. That preference shall be documented and complied with except in exigent circumstances.

The staff PREA training curriculum reinforces that the facility has implemented 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.

The auditor reviewed the training curriculum and training records to support that staff have received training on how to conduct cross-gender pat-down searches, and searches of transgender and intersex inmates, in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.

All staff interviews confirmed they are knowledgeable of this requirement in the policy. There were no transgender/intersex inmates housed at the facility at the time of the on-site audit (this was supported by documentation requested by the auditor).

In the intake area, there is a body scanner. Policy BCSO-067R Searches acknowledges this as an aspect of a search and ensures that staff of the same sex as the inmate operate and view the scan results.

As stated above, policy supports the requirement of the standard. The auditor was appropriately announced during the tour of the facility when entering male housing units.

Approximately 95% of the inmate interviews confirmed that opposite gender staffs are announced when they enter the unit.

During the tour, the auditor observed all showers, toilets and sinks and found modifications made (i.e. shower curtains, barriers, or doors) were in place to afford inmates as much privacy as possible while not restricting staff from ensuring their safety. The auditor spoke with the female intake staff officer and examined the process for how a female offender would be processed and the possible areas where she would be held and found it represented compliance with the standard and privacy. There were no video footage opportunities to review as this is a rare occurrence.

All inmate and staff interviews confirmed that inmates are able to shower, perform bodily functions and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia. In addition, the intake area has a body scanner. The facility provided the auditor with a copy of the policy BCSO-067R Searches which supports that the same gender staff will be the one who observes the image.

Finding of compliance based on the following: Policy, review of the PREA training curriculum and search training curriculum, review of training records, and observations during the tour, inmate and staff interviews all support that the facility is ensuring that the requirements of this standard are being met.

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

115.16 (a)

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

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

115.16 (b)

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

115.16 (c)

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

Auditor Overall Compliance Determination

Exceeds Standard (*Substantially exceeds requirement of standards*)

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

Does Not Meet Standard (*Requires Corrective Action*)

This standard has the following requirements: (a) The agency shall take appropriate steps to ensure that inmates with disabilities (including, for example, inmates who are deaf or hard of hearing, those who are blind or have low vision, or those who have intellectual, psychiatric, or speech disabilities), have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment. Such steps shall include, when necessary to ensure effective communication with inmates who are deaf or hard of hearing, providing access to interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary. In addition, the agency shall ensure that written materials are provided in formats or through methods that ensure effective communication with inmates with disabilities, including inmates who have intellectual disabilities, limited reading skills, or who are blind or have low vision. An agency is not required to take actions that it can demonstrate would result in a fundamental alteration in the nature of a service, program, or activity, or in undue financial and administrative burdens, as those terms are used in regulations promulgated under title II of the Americans With Disabilities Act, 28 CFR 35.164. (b) The agency shall take reasonable steps to ensure meaningful access to all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment to inmates who are limited English proficient, including steps to provide interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary. (c) The agency shall not rely on inmate interpreters, inmate readers, or other types of inmate assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the inmate's safety, the performance of first-response duties under § 115.64, or the investigation of the inmate's allegations.

A policy that ensures inmates are not denied 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 is BCSO-116R Reasonable Accommodation of Special Needs. It ensures that the Sheriff's Office shall take appropriate steps *to ensure that inmates with disabilities (deaf/hard of hearing, blind/low vision, intellectual, psychiatric or speech disabilities) have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment. This includes access to interpreters, written materials that ensure effective communication with inmates with disabilities including inmates who have intellectual disabilities, limited reading skills.* There is an Assistant Superintendent who is assigned to manage Americans with Disabilities Act (ADA) needs. This policy further states that the agency shall take reasonable steps to ensure meaningful access to all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment to inmates who are limited English proficient, including steps to provide interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary. The policy indicates that *the agency shall not rely on inmate interpreters, inmate readers, or other types of inmate assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the inmate's safety, the performance of first-response duties or the investigation of the inmate's allegations.*

Posters with information about PREA were observed in English and Spanish throughout the facility. Inmate interviews, both randomly selected and those with limited English confirmed that the posters have remained posted in the units. At this facility, there are twenty six (26) staff who are bi-lingual addressing the following languages: French, Ga/Twi, Spanish, American Sign Language, Korean, Italian, Laos, and Polish.

The PAQ indicates that another inmate has not been used to interpret for the performance of first responder duties. This was confirmed by all interviews with randomly selected staff. Therefore, the auditor found no reason to dispute this.

Finding of compliance based on the following: The interview with the Sheriff confirmed that the agency is committed to ensuring that inmates who are disabled or have limited English speaking will not be denied participation or benefits of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment. During the tour, the auditor observed the posters in Spanish. Interviews with inmates who have physical disabilities, cognitive disabilities, and/or limited English skills led the auditor to believe the facility is compliant with the requirements of this standard. The facility also has tablets accessible to staff for the purpose of translating foreign languages. In addition, the facility provided evidence that an inmate who was hearing impaired was provided with hearing aids at no cost to the inmate.

Standard 115.17: Hiring and promotion decisions

115.17 (a)

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

- Does the agency prohibit the enlistment of services of any contractor who may have contact with inmates who has been civilly or administratively adjudicated to have engaged in the activity described in the question immediately above? Yes No

115.17 (b)

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

115.17 (c)

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

115.17 (d)

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

115.17 (e)

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

115.17 (f)

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

115.17 (g)

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

115.17 (h)

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

Auditor Overall Compliance Determination

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

This standard has the following requirements: (a) The agency shall not hire or promote anyone who may have contact with inmates, and shall not enlist the services of any contractor who may have contact with inmates, who— (1) Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997); (2) Has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or (3) Has been civilly or administratively adjudicated to have engaged in the activity described in paragraph (a)(2) of this section. (b) The agency shall consider any incidents of sexual harassment in determining whether to hire or promote anyone, or to enlist the services of any contractor, who may have contact with inmates. (c) Before hiring new employees who may have contact with inmates, the agency shall: (1) Perform a criminal background records check; and (2) Consistent with Federal, State, and local law, make its best efforts to contact all prior institutional employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse. (d) The agency shall also perform a criminal background records check before enlisting the services of any contractor who may have contact with inmates. (e) The agency shall either conduct criminal background records checks at least every five years of current employees and contractors who may have contact with inmates or have in place a system for otherwise capturing such information for current employees. (f) The agency shall ask all applicants and employees who may have contact with inmates directly about previous misconduct described in paragraph (a) of this section in written applications or interviews for hiring or promotions and in any interviews or written self-evaluations conducted as part of reviews of current employees. The agency shall also impose upon employees a continuing affirmative duty to disclose any such misconduct. (g) Material omissions regarding such misconduct, or the provision of materially false information, shall be grounds for termination. (h) Unless prohibited by law, the agency shall provide information on substantiated allegations of sexual abuse or sexual harassment involving a former employee upon receiving a request from an institutional employer for whom such employee has applied to work.

The PAQ states that 17 staff has been hired in the previous 12 months, who may have contact with inmates, 3 contractual staff. The auditor observed these questions on the application; the application is used for promotions as well. The auditor asked to review the last four new applicants and the last two promotions to confirm compliance with the requirements. All documentation reviewed demonstrated compliance with this requirement.

BCSO-018R Selection and Hiring ensures that the Berkshire County Sheriff's Office will not hire or promote anyone who may have contact with inmates, and shall not enlist the services of any contractor who may have contact with inmates, who— (1) Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997); (2) Has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or (3) Has been civilly or administratively adjudicated to have engaged in the activity described in paragraph (d)(ii) of this section. The Berkshire County Sheriff's Office will 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. The Berkshire County Sheriff's Office will ask all applicants and employees who may have contact with inmates directly about previous misconduct described in paragraph (d) 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. All current employees and contractors have a continuing affirmative duty to disclose any such misconduct. Material omissions regarding such misconduct, or the provision of materially false information, shall be grounds for termination. . . . In accordance with state and federal statutes, The Berkshire County Sheriff's Office shall conduct a background investigation and criminal records check on all correctional staff employees that passed the written exam. A CORI check is done on all applicants prior to any interview. Non-correctional staff after a successful interview shall be subject to a background investigation and record check. All new employees as a condition of consideration of their application must voluntarily consent to and pass said investigation and record check. Prior to signing waivers, the candidate must be informed of the nature of the checks.

Personnel background investigations shall be conducted, at a minimum, via CJIS, NCIC, Board of Probation, previous employers and references. The Berkshire County Sheriff's Office will use 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. When the Director of Personnel, or higher authority, deems it necessary, further investigation/referral may be conducted.

The Berkshire County Sheriff's Office shall also perform a criminal background records check before enlisting the services of any contractor who may have contact with inmates.

Criminal background records checks shall be conducted at least every five years of current employees and contractors who may have contact with inmates. Upon submission of a valid authorization for release signed by the former employee, the Berkshire County Sheriff's Office shall provide information on substantiated allegations of sexual abuse or sexual harassment involving a former employee upon receiving a request from an institutional employer for whom such employee has applied to work.

Even though the standard requires that criminal background checks be conducted every five years, the facility conducts them annually. The auditor asked to review the last four new applicants and the last two promotions to confirm compliance with the requirements. All documentation reviewed demonstrated compliance with conducting a background check, specifically the application, and the evidence of a background check, reference checks and signature indicating that falsifying and/or omitting information can be grounds for not getting hired, or termination if discovered later. The auditor requested to see documentation demonstrating that the background checks have been completed for all staff with the last name of D, M & T. This yielded thirty-five (35) examples of background checks conducted within in the last year, national level checks, demonstrating sufficient evidence to support a finding of compliance with this aspect of the standard.

The interview with the Human Resource Director confirmed the facility's commitment to all aspects of this standard. All staff as part of their annual performance reviews are required to affirmatively disclose any past involvement with sexual misconduct identified in the standard.

Finding of compliance based on the following: As stated above, the interview with the Human Resource Director, policy which reinforces the requirements of the standard and review of randomly requested documentation also provided the auditor sufficient evidence to support a finding of compliance.

Standard 115.18: Upgrades to facilities and technologies

115.18 (a)

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

115.18 (b)

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

Auditor Overall Compliance Determination

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

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

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

The PAQ indicates that the agency has not made any substantial expansion or modification of existing facilities. The interview with the Sheriff and Superintendent support that no expansions or modifications have occurred since the previous audit (except to add a hydro/aquaponics facility). However, they are continually upgrading the video surveillance system. This information is detailed/prioritized in the agency’s vulnerability assessment, which was provided to the auditor.

Finding of compliance based on the following: Policy, Vulnerability Assessment, interview with the Sheriff, Superintendent and observations made during the tour support that no modifications or expansions have been made since the last PREA audit, and that the agency does use video technology to enhance the ability to protect inmates from sexual abuse.

RESPONSIVE PLANNING

Standard 115.21: Evidence protocol and forensic medical examinations

115.21 (a)

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

115.21 (b)

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

not responsible for conducting any form of criminal OR administrative sexual abuse investigations.) Yes No NA

115.21 (c)

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

115.21 (d)

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

115.21 (e)

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

115.21 (f)

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

115.21 (g)

- Auditor is not required to audit this provision.

115.21 (h)

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

Auditor Overall Compliance Determination

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

The standard has the following requirements: (a) To the extent the agency is responsible for investigating allegations of sexual abuse, the agency shall follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions. (b) The protocol shall be developmentally appropriate for youth where applicable, and, as appropriate, shall be adapted from or otherwise based on the most recent edition of the U.S. Department of Justice's Office on Violence Against Women publication, "A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents," or similarly comprehensive and authoritative protocols developed after 2011. (c) The agency shall offer all victims of sexual abuse access to forensic medical examinations, whether on-site or at an outside facility, without financial cost, where evidentiarily or medically appropriate. Such examinations shall be performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) where possible. If SAFEs or SANEs cannot be made available, the examination can be performed by other qualified medical practitioners. The agency shall document its efforts to provide SAFEs or SANEs. (d) The agency shall attempt to make available to the victim a victim advocate from a rape crisis center. If a rape crisis center is not available to provide victim advocate services, the agency shall make available to provide these services a qualified staff member from a community-based organization, or a qualified agency staff member. Agencies shall document efforts to secure services from rape crisis centers. For the purpose of this standard, a rape crisis center refers to an entity that provides intervention and related assistance, such as the services specified in 42 U.S.C. 14043g(b)(2)(C), to victims of sexual assault of all ages. The agency may utilize a rape crisis center that is part of a governmental unit as long as the center is not part of the criminal justice system (such as a law enforcement agency) and offers a comparable level of confidentiality as a nongovernmental entity that provides similar victim services. (e) As requested by the victim, the victim advocate, qualified agency staff member, or qualified community-based organization staff member shall accompany and support the victim through the forensic medical examination process and investigatory interviews and shall provide emotional support, crisis intervention, information, and referrals. (f) To the extent the agency itself is not responsible for investigating allegations of sexual abuse, the agency shall request that the investigating agency follow the requirements of paragraphs (a) through (e) of this section. (g) The requirements of paragraphs (a) through (f) of this section shall also apply to: (1) Any State entity outside of the agency that is responsible for investigating allegations of sexual abuse in prisons or jails; and (2) Any Department of Justice component that is responsible for investigating allegations of sexual abuse in prisons or jails. (h)

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

The PAQ indicates there have been no incidents requiring a forensic medical exam, SANE/SAFE exam or other exam by a qualified medical practitioner during the previous twelve (12) months. During the audit process, the auditor found this to be credible. The facility is prepared to ensure this in the event of a need.

Facility investigators were trained in conjunction with the Massachusetts Department of Corrections Sexual Assault Investigation Training. The auditor reviewed the training curriculum; it supports that Evidence Protocol and Forensic Medical Examinations are based from the Sexual Assault Investigator Certification Curriculum, Municipal Police Training Committee. Also, one facility investigator recently retired from the Massachusetts State Police as a Detective. The Berkshire County Sheriff's Office Sexual Abuse Response Plan demonstrates that a uniform evidence protocol has been established. The facility maintains a PREA kits (observed during the tour) to help ensure the proper collection of evidence. Directions are noted in the Response Plan. The auditor was provided a training module for training that is provided to the staff, specifically medical staff, by the Western Massachusetts Regional SANE Program Director along with the EFC Director on the details regarding a SANE process. This was confirmed by the interview with the Health Service Administrator and during the interview with the Program Director for the EFC.

*BCSO-017R-A Prevention of Sexual Abuse and Sexual Harassment of Inmates states, Inmates who are victims of sexual abuse may consult with a victim advocate for emotional support services related to sexual abuse by contacting the Elizabeth Freeman Center, 43 Francis Avenue, Pittsfield, MA 01201. The Elizabeth Freeman Center maintains a toll-free hotline at (866) 401-2425 or *333 no pin required. Such communications are confidential and will not result in a sexual abuse report being made to the BCSO or a BCSO investigation of sexual abuse.*

Where evidentiarily or medically appropriate, inmates who are victims of sexual abuse shall be offered a forensic medical examination at Berkshire Medical Center without financial cost.

Any State entity or Department of Justice component that conducts such investigations shall do so pursuant to the above requirements.

An MOU with the local hospital has been provided to the auditor, demonstrating cooperation with the agency in the event that an inmate/offender is sent to this hospital for a SANE exam. Use of this hospital for SANE/SAFE exams was confirmed by the interview with the Director for the Elizabeth Freeman Center.

There is an MOU with the agency, the Elizabeth Freeman Center, to provide Rape Counseling Services via phone 24 hours a day as well as provide a rape crisis advocate 24 hours a day. This MOU indicates the victim advocate will be sent to the jail if the incident warrants the need. A telephone interview with the Director of the Elizabeth Freeman Center was conducted on August 13, 2019. The Director confirmed the existence of the MOU and its

agreement to provide the rape counseling services and the rape crisis advocate, at the hospital and/or the jail. She confirmed that the Berkshire Medical Center will provide a SANE certified examination to inmates at the Berkshire Jail and House of Correction. SANE examinations at the Berkshire Medical Center are conducted by a SANE nurse from the Massachusetts Department of Public Health.

The Massachusetts State Police would investigate any criminal sexual abuse incidents. At the following website for Massachusetts at <https://www.mass.gov/service-details/the-prison-rape-elimination-act-prea-of-2003>., it states,

State Police PREA Policy

The Massachusetts State Police has a zero tolerance policy toward sexual abuse and sexual harassment of any kind towards any detainee while in State Police custody. All detainees have equal rights to safety, dignity, and justice and have the right to be free from sexual abuse and sexual harassment. To that end, the Massachusetts State Police has implemented policies to prevent, detect, and investigate sexual abuse and harassment within its confinement facilities. It is the State Police's policy to detect and investigate sexual abuse by an employee, vendor, contracted agency, volunteer, detainee or other non-Department member with a business association with the State Police. Detainees who are subject of sexual abuse or sexual harassment are strongly encouraged to report the behavior. All complaints will be investigated thoroughly and completely, whether criminally or administratively, whichever is most appropriate.

Finding of compliance based on the following: Policy, review of the investigations, interview with the Director for the Elizabeth Freeman Center, review of the Massachusetts State Policy website, review of the investigations and the investigator training curriculum, review of the Response Plan and the observation of the PREA kit, and review and confirmation of the additional training provided regarding forensic exams all provided the auditor with sufficient evidence to support a finding of exceeds compliance with this standard.

Standard 115.22: Policies to ensure referrals of allegations for investigations

115.22 (a)

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

115.22 (b)

- Does the agency have a policy and practice in place to ensure that allegations of sexual abuse or sexual harassment are referred for investigation to an agency with the legal authority to

conduct criminal investigations, unless the allegation does not involve potentially criminal behavior? Yes No

- Has the agency published such policy on its website or, if it does not have one, made the policy available through other means? Yes No
- Does the agency document all such referrals? Yes No

115.22 (c)

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

115.22 (d)

- Auditor is not required to audit this provision.

115.22 (e)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

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

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

BCSO-017R-A Prevention of Sexual Abuse and Sexual Harassment of Inmates states, *All allegations of sexual abuse, sexual harassment or other sexual misconduct involving any staff or inmate shall be promptly, thoroughly and objectively investigated. Allegations of sexual abuse shall be investigated by investigators who have received specialized training in sexual*

abuse investigations in confinement. The auditor was able to find this policy on the agency website.

The interview conducted with the Sheriff verbally confirmed that all allegations of sexual abuse or sexual harassment are referred for administrative or criminal investigations. PAQ indicates there have been seven administrative and criminal investigations in the past 12 months. The auditor reviewed all investigations with two investigators.

Review of the investigations supported that all allegations are referred to the investigators. The investigators confirmed they are on call and indicated they have an email mechanism that ensures all investigators are emailed when a PREA Incident form is completed. This affords them the ability to come to the facility and initiate an investigation immediately. They all confirmed they have a strong cooperative arrangement with the District Attorney and Massachusetts State Police. They support this statement by indicating that they work with the State Police on many cases not related to sexual harassment or sexual abuse. One of the agency investigators worked with the Massachusetts State Police Detective Division for over 30 years prior to being hired by the BCSO. This investigator has experience in both criminal and administrative sexual assault investigations.

Finding of compliance based on the following: Policy, review of investigations and interviews/interactions with the investigators during the audit provided sufficient evidence to find the facility in compliance. Finding of exceed compliance due to the experience of the investigator.

TRAINING AND EDUCATION

Standard 115.31: Employee training

115.31 (a)

- Does the agency train all employees who may have contact with inmates on its zero-tolerance policy for sexual abuse and sexual harassment? Yes No
- Does the agency train all employees who may have contact with inmates on how to fulfill their responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures? Yes No
- Does the agency train all employees who may have contact with inmates on inmates' right to be free from sexual abuse and sexual harassment Yes No
- Does the agency train all employees who may have contact with inmates on the right of inmates and employees to be free from retaliation for reporting sexual abuse and sexual harassment? Yes No
- Does the agency train all employees who may have contact with inmates on the dynamics of sexual abuse and sexual harassment in confinement? Yes No

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

115.31 (b)

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

115.31 (c)

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

115.31 (d)

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

Auditor Overall Compliance Determination

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

Does Not Meet Standard (*Requires Corrective Action*)

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

The PAQ supports that 100% of staff have been trained. All random staff interviews confirmed a sound understanding of the requirements of PREA, confirming they are trained on the required topics.

BCSO-025R Orientation and Training Requirements ensures that staff is trained in the following: *(1) Its zero-tolerance policy for sexual abuse and sexual harassment; (2) How to fulfill their responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures; (3) Inmates' right to be free from sexual abuse and sexual harassment; (4) The right of inmates and employees to be free from retaliation for reporting sexual abuse and sexual harassment; (5) The dynamics of sexual abuse and sexual harassment in confinement; (6) The common reactions of sexual abuse and sexual harassment victims; (7) How to detect and respond to signs of threatened and actual sexual abuse; (8) How to avoid inappropriate relationships with inmates; (9) How to communicate effectively and professionally with inmates, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming inmates; and (10) How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities). 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.*

It further 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 agency shall provide each employee with refresher training every two years to ensure that all employees know the agency's current sexual abuse and sexual harassment policies and procedures. In years in*

which an employee does not receive refresher training, the agency shall provide refresher information on current sexual abuse and sexual harassment policies. (d) The agency shall document, through employee signature or electronic verification that employees understand the training they have received.

The auditor reviewed the training curriculum. It addresses the following: The Prison Rape Elimination Act (PREA); inmates legal right to be free from sexual abuse and sexual harassment; Preventing, Detecting & Responding to sexual abuse/harassment; definitions; zero tolerance; presumptive penalty for engaging in sexual abuse or sexual harassment is discharge; unannounced supervisory rounds; cross-gender searches; inmate privacy; transgender/intersex inmates; hiring and promotions; PREA risk assessments; use of risk assessment information; inmate education; placement of sexually vulnerable inmates in segregation; staff reporting obligations including retaliation and staff neglect); staff first responder duties; traits of sexually vulnerable and sexually aggressive inmates; characteristics of staff perpetrators; mandated reporter; and avoiding in appropriate relationships with inmates. A separate training module entitled, National Institute of Corrections' (NIC) Introduction to Communicating Effectively and Professionally with LGBTI Offenders is also provided to staff.

Staff interviews all supported that they have been training annually in these topics. They demonstrated a sound understanding of the information and the reasons for them. They were able to articulate specific application to their job. Documentation was provided to the auditor demonstrating that upon completion, staff signs acknowledging they understand the training.

In addition to the annual training, Shift Supervisors review each PREA Refreshers issued by the National PREA Resource Center during roll call with staff. Staff is all provided with a copy of the Refreshers.

Finding of compliance based on the following: As described above, the policy, training curriculum, random staff interviews, and review of documents showing that staff sign indicating they received and understand the training support a finding of compliance, exceeds compliance as the training is provided annually and further supplemented by reviewing the Refreshers during roll call.

Standard 115.32: Volunteer and contractor training

115.32 (a)

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

115.32 (b)

- Have all volunteers and contractors who have contact with inmates been notified of the agency's zero-tolerance policy regarding sexual abuse and sexual harassment and informed how to report such incidents (the level and type of training provided to volunteers and

contractors shall be based on the services they provide and level of contact they have with inmates)? Yes No

115.32 (c)

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

Auditor Overall Compliance Determination

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

The standard has the following requirements: (a) The agency shall ensure 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. (b) 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, but all volunteers and contractors who have contact with inmates shall be notified of the agency's zero-tolerance policy regarding sexual abuse and sexual harassment and informed how to report such incidents. (c) The agency shall maintain documentation confirming that volunteers and contractors understand the training they have received.

The agency had developed a "PREA Guide for Volunteers and Contractors". This includes an overview of the law, reporting requirements, Massachusetts law, definitions of sexual abuse, avoiding undue overfamiliarity, Red Flags, and Mandatory Reporting. The auditor was also provided and reviewed the entire orientation given to volunteers and contractual staff. At the end, there is a form that is signed by the participant that indicates they agree and understand their obligation under this policy. The auditor was allowed access to all volunteer and contractor files. Four were randomly pulled; all contained documentation supporting the requirements of this standard. The auditor was able to interview one volunteer who had been providing services eight months. He too supported that he has been appropriately educated about the law, the policy and his responsibilities to prevent, detect and respond to any sexual abuse or sexual harassment concerns of inmates/residents.

Finding of compliance based on the following: Review of policy, interview with the volunteer, and the access to all records with the ability to randomly select files which demonstrated compliance with the standards.

Standard 115.33: Inmate education

115.33 (a)

- During intake, do inmates receive information explaining the agency's zero-tolerance policy regarding sexual abuse and sexual harassment? Yes No
- During intake, do inmates receive information explaining how to report incidents or suspicions of sexual abuse or sexual harassment? Yes No

115.33 (b)

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

115.33 (c)

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

115.33 (d)

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

115.33 (e)

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

115.33 (f)

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

Auditor Overall Compliance Determination

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

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

The PAQ indicates that 907 inmates admitted during the past 12 months were given information on the agency's zero-tolerance policy regarding sexual abuse and sexual harassment.

BCSO-017R-A Prevention of Sexual Abuse and Sexual Harassment of Inmates states, *INMATE EDUCATION* -

Upon admission to BCSO custody, each inmate will receive and sign for a copy of the inmate handbook which contains information about the BCSO's Zero-Tolerance policy regarding sexual abuse and sexual harassment and how to report incidents or suspicions of sexual abuse or sexual harassment.

Within thirty days after intake, the BCSO shall provide comprehensive education to inmates in person or through video regarding their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents, and regarding agency

policies and procedures for responding to such incidents. A written record of inmate participation shall be maintained by the BCSO.

Postings concerning key information about PREA are posted throughout the facility.

The auditor toured the intake area. The intake supervisor confirmed that all inmates receive and sign for the inmate handbook within hours of arrival and before leaving the booking area to go to their housing unit. Each inmate is also given and signs for a Sexual Misconduct Informational Sheet which provides examples of inappropriate sexual behavior and how to report it. The informational sheet also advises inmates that retaliation for reporting will not be tolerated and that counseling is available to sexual abuse victims.

In order to assess compliance, the auditor requested and received documentation showing the first fifteen inmates who arrived in June who had attended orientation had documentation of participation, documentation of signing for information at intake and their risk assessment. It was reported that typically, within an hour all incoming inmates are assessed by the intake officer then the nurse who further addresses disability needs and language needs (confirmed by the interviews with the nurses). The language line is available for assistance with this process (also confirmed by the interview with a nurse who conducts the initial risk assessment).

During the on-site audit, the auditor was able to observe orientation activities. This process demonstrated that inmates were shown a video from Just Detention International, Inc. (JDI) and also verbally given information explaining the law, their rights, and reporting.

The auditor reviewed the inmate handbook. It is available in English and Spanish. PREA information is located on page twenty-six. It addresses zero tolerance, defines sexual abuse and sexual harassment, availability of a hotline – available at no charge, availability of the District Attorney’s phone number – again at no cost, and availability of rape crisis services – telephone number (no PIN required), no cost, confidential.

The posters address the following: Zero Tolerance for sexual abuse, sexual harassment and staff sexual misconduct. They provide information on how to report: BCHC hotline, District Attorney phone number, any staff member and *333 which reaches the Elizabeth Freeman Center (EFC). It further concludes that all allegations are confidential, all are investigated. As noted above, the information on confidential rape counseling services available through EFC was separate from the PREA posters providing contact information for reporting to avoid any potential for inmate confusion that calling the EFC would result in a report to the facility and a PREA investigation. Posters are visible throughout the facility, especially secured above the inmate phones, the officers station (at a level easily read by someone in a wheelchair) and on the walls that provide meaningful information to the inmate population such as how to report and reinforcing the zero tolerance. They are posted in English and Spanish. One poster has an additional statement in Hmong. Inmate interviews confirmed knowledge of these posters and receipt of the handbook. They indicated they were educated that they should not have to fear retaliation for making a report. Many stated, “they take it seriously here.”

Finding of compliance based on the following: Review of the documentation (including randomly requested documentation), observations made during the on-site audit, interviews with the intake staff and random interviews with the inmates all provided the auditor sufficient evidence to support a finding of compliance.

Standard 115.34: Specialized training: Investigations

115.34 (a)

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

115.34 (b)

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

115.34 (c)

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

115.34 (d)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

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

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

The PAQ indicates that the agency has eight (8) investigators that have completed the specialized training. Interviews with three of the investigators supported that they have received the specialized training.

Investigators attend the Sexual Assault Investigator Training (SAIT), provided by the Massachusetts Department of Corrections. SAIT is generally a 3-day, comprehensive, training program. The auditor was provided the training manual. The training curriculum addresses the following topics: Introduction to Sexual Assault Investigation; Defining PREA; Evidence Protocol; Interviewing, including Miranda and Garrity; Investigative Outcomes Documentation; and Post Allegation responsibilities. The auditor requested and received documentation showing that the eight investigators involved in the investigations reviewed had completed specialized training (SAIT) in addition to general training provided to all employees.

Finding of compliance is based on the following: Review of the policy, interview with the investigators, and review of training records all provide sufficient evidence to support a finding of compliance.

Standard 115.35: Specialized training: Medical and mental health care

115.35 (a)

- Does the agency ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in how to detect and assess signs of sexual abuse and sexual harassment? Yes No
- Does the agency ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in how to preserve physical evidence of sexual abuse? Yes No

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

115.35 (b)

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

115.35 (c)

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

115.35 (d)

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

Auditor Overall Compliance Determination

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

This standard has the following requirements: (a) The agency shall ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in: (1) How to detect and assess signs of sexual abuse and sexual harassment; (2) How to preserve physical evidence of sexual abuse; (3) How to respond effectively and professionally to victims of sexual abuse and sexual harassment; and (4) How and to whom to report allegations or suspicions of sexual abuse and sexual harassment. (b) If medical staff employed by the agency conduct forensic examinations, such medical staff shall receive the appropriate training to conduct such examinations. (c) The agency shall maintain documentation that medical and mental health practitioners have received the training referenced in this standard either from the agency or elsewhere. (d) Medical and mental health care practitioners shall also receive the training mandated for employees under § 115.31 or for contractors and volunteers under § 115.32, depending upon the practitioner's status at the agency.

The PAQ reports that the facility has 16 medical/mental health staff, and 100% compliance with training.

Under the Berkshire County Sheriff's Office Jail and House of Correction Medical Policies and Procedure Response to Sexual Assault, Specialized Training for Medical and Mental Health Staff it states, *A. The agency shall ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in: (1) How to detect and assess signs of sexual abuse and sexual harassment; (2) How to preserve physical evidence of sexual abuse; (3) How to respond effectively and professionally to victims of sexual abuse and sexual harassment; and (4) How and to whom to report allegations or suspicions of sexual abuse and sexual harassment. If medical staff employed by the agency conduct forensic examinations, such medical staff shall receive the appropriate training to conduct such examinations. B. The agency shall maintain documentation that medical and mental health practitioners have received the training referenced in this standard either from the agency or elsewhere. C. Medical and mental health care practitioners shall also receive the training mandated for employees under § 115.31 or for contractors and volunteers under § 115.32, depending upon the practitioner's status at the agency.*

In addition to the training provided to all staff at the facility, medical staff receives additional training from the Regional Coordinator for the MA Sexual Assault Nurse Examiner Program. In addition to detailed information about the SANE process, it does address mandatory reporting, and actions to be taken at the jail to preserve evidence. This training is conducted in association with the rape counseling services provider, the Elizabeth Freeman Center.

Interviews with the medical and mental health staff support that medical and mental health staff receive both specialized training in addition to the standard staff training. The auditor viewed training documents supporting that medical staff received specialized training in addition to documents showing medical and mental health staff have also received regular PREA training.

Finding of compliance is based on the following: As required by the standard, the medical and mental health receives both the general training and an additional specialized training. The training provided by the Regional Coordinator provides additional details regarding the process, and is conducted by outside staffs who are Subject Matter Experts in this area. Therefore the auditor finds the facility exceeds the standard.

SCREENING FOR RISK OF SEXUAL VICTIMIZATION AND ABUSIVENESS

Standard 115.41: Screening for risk of victimization and abusiveness

115.41 (a)

- Are all inmates assessed during an intake screening for their risk of being sexually abused by other inmates or sexually abusive toward other inmates? Yes No

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

115.41 (b)

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

115.41 (c)

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

115.41 (d)

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (1) Whether the inmate has a mental, physical, or developmental disability? Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (2) The age of the inmate? Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (3) The physical build of the inmate? Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (4) Whether the inmate has previously been incarcerated?
 Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (5) Whether the inmate's criminal history is exclusively nonviolent?
 Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (6) Whether the inmate has prior convictions for sex offenses against an adult or child? Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (7) Whether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming (the facility affirmatively asks the inmate about his/her sexual orientation and gender identity AND makes a subjective determination based on the screener's perception whether the inmate is gender non-conforming or otherwise may be perceived to be LGBTI)? Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (8) Whether the inmate has previously experienced sexual victimization? Yes No

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (9) The inmate's own perception of vulnerability? Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (10) Whether the inmate is detained solely for civil immigration purposes? Yes No

115.41 (e)

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

115.41 (f)

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

115.41 (g)

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

115.41 (h)

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

115.41 (i)

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

Auditor Overall Compliance Determination

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

The standard has the following requirements: (a) All inmates shall be assessed during an intake screening and upon transfer to another facility for their risk of being sexually abused by other inmates or sexually abusive toward other inmates. (b) Intake screening shall ordinarily take place within 72 hours of arrival at the facility. (c) Such assessments shall be conducted using an objective screening instrument. (d) The intake screening shall consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization:

- (1) Whether the inmate has a mental, physical, or developmental disability;
- (2) The age of the inmate;
- (3) The physical build of the inmate;
- (4) Whether the inmate has previously been incarcerated;
- (5) Whether the inmate's criminal history is exclusively nonviolent;
- (6) Whether the inmate has prior convictions for sex offenses against an adult or child;
- (7) Whether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming;

(8) Whether the inmate has previously experienced sexual victimization;

(9) The inmate's own perception of vulnerability; and

(10) Whether the inmate is detained solely for civil immigration purposes.

(e) The initial screening shall consider prior acts of sexual abuse, prior convictions for violent offenses, and history of prior institutional violence or sexual abuse, as known to the agency, in assessing inmates for risk of being sexually abusive. (f) Within a set time period, not to exceed 30 days from the inmate's arrival at the facility, the facility will reassess the inmate's risk of victimization or abusiveness based upon any additional, relevant information received by the facility since the intake screening. (g) An inmate's risk level shall be reassessed when warranted due to a referral, request, incident of sexual abuse, or receipt of additional information that bears on the inmate's risk of sexual victimization or abusiveness.

(h) Inmates may not be disciplined for refusing to answer, or for not disclosing complete information in response to, questions asked pursuant to paragraphs (d)(1), (d)(7), (d)(8), or (d)(9) of this section. (i)

The agency shall implement appropriate controls on the dissemination within the facility of responses to questions asked pursuant to this standard in order to ensure that sensitive information is not exploited to the inmate's detriment by staff or other inmates.

According to the PAQ, during the past 12 months there were 7142 that were processed through intake and remained over 72 hours and 2510 admitted who remained over 30 days.

BCSO-017R-A Prevention of Sexual Abuse and Sexual Harassment of Inmates

INMATE EVALUATION -

1) *All inmates will be assessed upon coming into the custody of the BCSO (including those transferring to or from another correctional facility) to determine whether they meet specific criteria indicating either vulnerability to sexual abuse or a history of sexually aggressive behavior.*

A. *Sexually Vulnerable Inmates*

All inmates shall be evaluated upon coming into the custody of the BCSO to determine their vulnerability to sexual abuse taking into consideration the following risk factors:

- (1) Whether the inmate has a mental, physical, or developmental disability;*
- (2) The age of the inmate;*
- (3) The physical build of the inmate;*
- (4) Whether the inmate has previously been incarcerated;*
- (5) Whether the inmate's criminal history is exclusively nonviolent;*
- (6) Whether the inmate has prior convictions for sex offenses against an adult or child;*
- (7) Whether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming;*
- (8) Whether the inmate has previously experienced sexual victimization;*
- (9) The inmate's own perception of vulnerability; and*
- (10) Whether the inmate is detained solely for civil immigration purposes.*

If, based on a review of the above factors and any other relevant information, the Shift Supervisor determines that the inmate may be to be vulnerable to a possible sexual assault, documentation shall be made in the inmate's file and shall be taken into consideration when assigning the inmate to a housing unit.

B. *Sexually Aggressive Inmates*

All inmates shall be evaluated upon coming into the custody of the BCSO to determine if there are indicators that an inmate is prone to victimize other inmates, especially in regard to sexual behavior, including the following:

Prior acts of sexual abuse;

Prior convictions for violent offenses; and

History of prior institutional violence or sexual abuse, as known to the BCSO.

- 2) Inmates identified as sexually aggressive or sexually vulnerable shall be followed up with by a mental health clinician for assessment, monitoring, and counseling within 14 days of intake.*
- 3) When an inmate reports having been sexually abused in another correctional facility not under BCSO jurisdiction, a written report shall be made by the Shift Supervisor to the Sheriff and PREA Coordinator and the Mental Health Department. The Sheriff or his designee will then notify the head of the facility where the abuse occurred within 72 hours. This notification shall be documented.*
- 4) Within 14 days of the intake screening, any inmate who has experienced sexual victimization, whether it occurred in an institutional setting or in the community, shall be offered a follow-up meeting with a mental health clinician.*
- 5) 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. When conducting a reassessment, the case manager should refer to the initial PREA Screening Scale, the Supervisor's Intake Screening and Initial Classification form, the Initial Orientation Checklist and any additional information that may be available. Any modification of the risk*

assessment (for SA or SV status) shall be documented on the PREA Screening Scale and entered in the Offenders Management System (OMS).

6) 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.

In conducting screening/rescreening staff shall not discipline or take any other adverse action against an inmate for refusing to answer the following: physical disabilities, mental illness, vulnerable, request pc status, LGBTQI status, and history of sexual victimization

7) Inmates identified as sexually aggressive or sexually vulnerable shall have an appropriate indicator entered in the OMS. However, the underlying information used to classify an inmate as sexually aggressive or sexually vulnerable shall only be available to staff who have a need to know that information. Further, any information related to sexual victimization or abusiveness that occurred in an institutional setting shall be strictly limited to medical and mental health practitioners and other staff, as necessary, to inform treatment plans and security and management decisions, including housing, bed, work, education and program assignments, or as otherwise required by Federal, State or local law.

8) Whenever an inmate is identified as sexually vulnerable or sexually aggressive (during the initial intake or during any subsequent review), the staff member identifying the inmate as such shall notify mental health.

With the change in the State Law, the staff now initially asks the person what gender they identify as before asking them any other questions so that this is established at the beginning of the intake process. This affords the staff the ability to ensure that the gender preference of the staff viewing the body scan and conducting searches is addressed. The policy and the risk assessment screen support all criteria noted in the standard. In addition, there is a question about the inmate's perception of sexual orientation, then an additional question for the staff to address if they perceive the inmate to be gay, lesbian, bisexual, transgender, intersex or gender nonconforming. Additionally, history of placement in protection is included. Staff is afforded a space for a brief notation of any specific concerns. Access to the information gathered is controlled by restricting it to only those with a need to know. This was reported to be those who make housing assignments, conduct risk assessments (case managers, intake officer), medical staff, and supervisors. This fact was confirmed by interviews with the PREA Coordinator, the case managers are the ones responsible for re-evaluating anyone within 30 days due to any additional, relevant information received by the facility since the intake screening. They would also be the persons responsible to reassess the risk assessment when warranted or when referred. It was reported that no changes had occurred for the auditor to review. The auditor reviewed 15 randomly requested risk assessments. The Risk Assessment addresses all questions as required by the standard. The interview with the intake officer confirmed that inmates are not disciplined for not answering questions. Four inmates were randomly asked during their interviews; they all confirmed they did not fear discipline for not answering the questions. Both the intake officer and the inmates indicated they were questioned in a private setting.

Finding of compliance is based on the following: As noted, the policy, risk assessment, interviews with the PREA Coordinator, intake officer and case manager who makes housing assignments, and conducts the risk assessment all provided sufficient evidence to make a finding of compliance. The auditor gave a finding of "exceeds standard" due to the initiative to

ascertain the gender identity first to ensure that a transgender/intersex inmate's needs are addressed.

Standard 115.42: Use of screening information

115.42 (a)

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

115.42 (b)

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

115.42 (c)

- When deciding whether to assign a transgender or intersex inmate to a facility for male or female inmates, does the agency consider on a case-by-case basis whether a placement would ensure the inmate's health and safety, and whether a placement would present management or security problems (NOTE: if an agency by policy or practice assigns inmates to a male or female facility on the basis of anatomy alone, that agency is not in compliance with this standard)? Yes No
- When making housing or other program assignments for transgender or intersex inmates, does the agency consider on a case-by-case basis whether a placement would ensure the inmate's health and safety, and whether a placement would present management or security problems? Yes No

115.42 (d)

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

115.42 (e)

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

115.42 (f)

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

115.42 (g)

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

Auditor Overall Compliance Determination

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

The standard has the following requirements: (a) The agency shall use information from the risk screening required by § 115.41 to inform housing, bed, work, education, and program assignments with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive. (b) The agency shall make individualized determinations about how to ensure the safety of each inmate. (c) In deciding whether to assign a transgender or intersex inmate to a facility for male or female inmates, and in making other housing and programming assignments, the

agency shall consider on a case-by-case basis whether a placement would ensure the inmate's health and safety, and whether the placement would present management or security problems. (d) Placement and programming assignments for each transgender or intersex inmate shall be reassessed at least twice each year to review any threats to safety experienced by the inmate.

(e) A transgender or intersex inmate's own views with respect to his or her own safety shall be given serious consideration. (f) Transgender and intersex inmates shall be given the opportunity to shower separately from other inmates. (g) The agency shall not place lesbian, gay, bisexual, transgender, or intersex inmates in dedicated facilities, units, or wings solely on the basis of such identification or status, unless such placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting such inmates.

BCSO-017R-A Prevention of Sexual Abuse and Sexual Harassment of Inmates

INMATE EVALUATION -

9) *Screening information shall be used to inform housing, bed, work, education and program assignments with the goal of keeping separate those inmates identified as Sexually Vulnerable from those inmates identified as Sexually Aggressive.*

10) *Individualized determinations shall be made about how to insure the safety of each inmate.*

11) *In deciding whether to assign a transgender or intersex inmate to a facility for male or female inmates, and in making housing and programming assignments, the BCSO shall consider on a case-by-case basis whether a placement would ensure the inmate's health and safety, and whether the placement would represent management or security problems.*

12) *Placement and programming assignments for each transgender or intersex inmate shall be reassessed at least twice each year to review any threats to safety experienced by the inmate.*

13) *A transgender or intersex inmate's own view with respect to his or her own safety shall be given serious consideration.*

The Berkshire County Sheriff's Office will not place lesbian, gay, bisexual, transgender or intersex inmates in dedicated facilities, units, or wings solely on the basis of such identification or status, unless such placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting such inmates.

As demonstrated to the auditor, once the risk screen is completed in the Offender Management System (OMS), staff is able to view PREA alerts which designate the inmate as sexually vulnerable or sexually aggressive, but not the details of why the inmate was given the designation. During the audit, staff indicated how they use the information, in addition to other information received to ensure that the inmate is placed in the most appropriate housing unit, in the most appropriate cell, with a suitable cell mate, or on single cell status. As it was expressed to the auditor, this is an individualized determination. This affords staff the ability to ensure that they provide inmate safety regarding housing, bed, work, education, and program assignments. Staff interviews demonstrated to the auditor that staff is well trained regarding these designations and how this information is to be used to ensure safety of the inmate.

Policy supports that placement would be on a case-by-case basis, however for those placed at this facility for a sentence or a pre-trial basis; it does initially get determined by the court. There has been no occurrence of a transgender female inmate wanting to be sent to a female jail

since the previous audit; the auditor found no reason to dispute this. For the lock up operation, there is flexibility in where an offender is housed based on the offender's gender identification. These housing options were shown to the auditor during the on-site visit.

The new state law known as the 2018 Criminal Justice Reform Act (Chapter 69 of the Acts of 2018), requires in Section 32A that the facility;

1. Address a transgender inmate in a manner consistent with the prisoner's identity;
2. Provide access to commissary items, clothing, programming, educational materials, and personal property consistent with the prisoner's gender identity;
3. Search the prisoner by an officer of the gender requested by the transgender inmate; and
4. House the transgender prisoner in a correctional facility with inmates of the same gender identity unless the Sheriff/designee certifies in writing that the particular placement would not ensure the prisoner's health or safety or that the placement would present management or security problems.

Staff demonstrated a familiarity with the language of the new law and developed the intake questionnaire about transgender/intersex status to help insure compliance with the law.

There were no transgender/intersex inmates at this facility during the time of the audit. The auditor was provided documentation demonstrating that the transgender/intersex inmate's view are considered, giving her preference to the gender that she wanted to have strip search her (as she identified). The auditor was shown a system utilized to ensure that the transgender/intersex inmate reassessed at least twice each year to review any threats to safety experienced by the inmate, although no documentation was available due to no transgender/intersex having been housed at this facility for six months or longer in the previous 12 months.

The facility does not have 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 as confirmed during the tour and supported by policy.

Finding of compliance is based on the following: The policy and documents reviewed, review of documentation regarding a previous intersex inmate at this facility, forms in place and testimony that the staff ensures the transgender person to take showers in individual shower stalls which afford privacy give the auditor sound evidence to support a finding of compliance. In addition, staffs are provided information to help ensure the safety of those vulnerable versus those sexually aggressive.

Standard 115.43: Protective Custody

115.43 (a)

- Does the facility always refrain from placing inmates at high risk for sexual victimization in involuntary segregated housing unless an assessment of all available alternatives has been made, and a determination has been made that there is no available alternative means of separation from likely abusers? Yes No

- If a facility cannot conduct such an assessment immediately, does the facility hold the inmate in involuntary segregated housing for less than 24 hours while completing the assessment?
 Yes No

115.43 (b)

- Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Programs to the extent possible? Yes No
- Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Privileges to the extent possible? Yes No
- Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Education to the extent possible? Yes No
- Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Work opportunities to the extent possible? Yes No
- If the facility restricts access to programs, privileges, education, or work opportunities, does the facility document: The opportunities that have been limited? Yes No
- If the facility restricts access to programs, privileges, education, or work opportunities, does the facility document: The duration of the limitation? Yes No
- If the facility restricts access to programs, privileges, education, or work opportunities, does the facility document: The reasons for such limitations? Yes No

115.43 (c)

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

115.43 (d)

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

115.43 (e)

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

Auditor Overall Compliance Determination

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

The standard has the following requirements: (a) Inmates at high risk for sexual victimization shall not be placed in involuntary segregated housing unless an assessment of all available alternatives has been made, and a determination has been made that there is no available alternative means of separation from likely abusers. If a facility cannot conduct such an assessment immediately, the facility may hold the inmate in involuntary segregated housing for less than 24 hours while completing the assessment. (b) Inmates placed in segregated housing for this purpose shall have access to programs, privileges, education, and work opportunities to the extent possible. If the facility restricts access to programs, privileges, education, or work opportunities, the facility shall document: (1) The opportunities that have been limited; (2) The duration of the limitation; and (3) The reasons for such limitations. (c) The facility shall assign such inmates to involuntary segregated housing only until an alternative means of separation from likely abusers can be arranged, and such an assignment shall not ordinarily exceed a period of 30 days. (d) If an involuntary segregated housing assignment is made pursuant to paragraph (a) of this section, the facility shall clearly document: (1) The basis for the facility's concern for the inmate's safety; and (2) The reason why no alternative means of separation can be arranged. (e) Every 30 days, the facility shall afford each such inmate a review to determine whether there is a continuing need for separation from the general population.

PAQ states that no inmates have been placed in restrictive housing due to being a high risk for sexual victimization. The auditor found no reason to dispute this during the audit process. The facility's segregation policy supports this.

BCSO-081R Placement and Review of Inmates in Segregation

Special Protective Custody Rules for PREA states,

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

(B) Inmates placed in segregated housing for this purpose shall have access to programs, privileges, education, and work opportunities to the extent possible. If the facility restricts access to programs, privileges, education, or work opportunities, the facility shall document: (1) The opportunities that have been limited; (2) The duration of the limitation; and (3) The reasons for such limitations.

(C) The facility shall assign such inmates to involuntary segregated housing only until an alternative means of separation from likely abusers can be arranged, and such an assignment shall not ordinarily exceed a period of 30 days.

(D) If an involuntary segregated housing assignment is made pursuant to paragraph (a) of this section, the facility shall clearly document: (1) The basis for the facility's concern for the inmate's safety; and (2) The reason why no alternative means of separation can be arranged.

(E) Every 30 days, the facility shall afford each such inmate a review to determine whether there is a continuing need for separation from the general population.

The auditor toured the restrictive housing area. The interview with the Superintendent confirmed that the facility will explore all other options before placing someone at risk for sexual victimization in this setting. In the event that placement in restrictive housing is deemed most appropriate, policy ensures that the inmate is afforded the required access to programs, privileges, education and work to the extent possible. As noted in the narrative, one staff person was interviewed who works in this area. The interview yielded no concerns to the auditor.

Finding of compliance is based on the following: Review of the policy, interview with the Superintendent, staff who supervises the area and observations during the tour, provided the auditor with sufficient evidence to support a finding of compliance.

REPORTING

Standard 115.51: Inmate reporting

115.51 (a)

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

115.51 (b)

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

- Are inmates detained solely for civil immigration purposes provided information on how to contact relevant consular officials and relevant officials at the Department of Homeland Security? Yes No

115.51 (c)

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

115.51 (d)

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

Auditor Overall Compliance Determination

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

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

BCSO-017R-A Prevention of Sexual Abuse and Sexual Harassment of Inmates states, *Inmates have the right to serve their time without fear of sexual abuse or sexual harassment from any source. All inmates are responsible for familiarizing themselves with the PREA information provided to them. Each inmate is required to refrain from sexual activity or conduct while in the custody of the Berkshire County Sheriff's Office. Inmates who engage in sexual conduct (verbal, physical or otherwise) will be subject to disciplinary sanctions and referral for prosecution.*

Inmate Reporting Obligations:

- 1) *Inmates shall report any sexual activity or conduct directed towards them.*

2) *Inmates shall report sexual activity by anyone else occurring in their presence or that they have knowledge of from any source.*

3) *Inmates shall report any retaliation by other inmates and staff against anyone who has reported sexual abuse or sexual harassment.*

4) *Inmates shall report any staff neglect or violation of responsibilities that may have contributed to sexual abuse, sexual harassment or retaliation.*

Inmates can report any of the above incidents by telling any staff member. Inmates can also call the PREA toll-free hotline (413-555-1234) from any inmate phone in the housing units.

Inmates can write to the Director of Security, Superintendent or the Assistant Superintendent to report sexual abuse or sexual harassment. Inmates can also submit an emergency grievance if an inmate is subject to a substantial risk of imminent sexual abuse. (See BCSO-115R – Grievance Procedure). The grievance shall be placed in a sealed envelope, marked “emergency grievance” and handed to any BCSO staff member.

Inmates can also contact the Berkshire District Attorney’s office (413) 443-5951 to report sexual abuse.

Staff shall accept reports made verbally, in writing, anonymously, and from third parties and shall promptly document any verbal reports.

Posters observed throughout the tour, in Spanish and English, reinforce the methods for reporting sexual abuse or sexual harassment. They were posted by the phones making access to these calls easier. All inmates interviewed knew what PREA was and this is was their right to be free from sexual abuse, sexual harassment and free from retaliation (if they needed to report a concern). All inmate interviews supported that they were educated on how to report a problem with sexual abuse/sexual harassment. All inmates interviewed confirmed they were aware and believed they could report privately and anonymously. All were aware that a third party allegation could be made (by them on behalf of another inmate or by their family). Approximately half however, needed slight prompting or clarification of the question with a hypothetical situation. Many inmates indicated they would use the phone number (“hotline”) to report a problem with sexual abuse or sexual harassment. Most inmates were not aware that they could contact the District Attorney to file an allegation; however, they did acknowledge they did receive an inmate handbook, where this information is located and this information is clearly displayed on posters within each housing unit.

Staff was also keenly aware of the various methods available to the inmates to report. All staff indicated they would act upon any allegation immediately regardless of how it was received, including verbally, third party, and anonymously. When staff were asked about how they could report privately, approximately half indicated based on the situation they could go to the person’s supervisor privately, some mentioned going to Human Resources, a few indicated they too could call the hotline numbers.

There is an MOU with the District Attorney’s office (copy provided to the auditor) indicating they will accept reports, anonymously and will immediately transmit them to the BCSO so they can take appropriate action. As noted in the narrative, the review of the investigations supported that multiple reporting methods were used. The auditor tested the “hot line” phone number, left a code word which was provided to the auditor within minutes of making the call, demonstrating the reliability and swiftness of the phone number reporting process. Records provided to the auditor demonstrated that this phone number was called 133 times (used for

more than sexual abuse/sexual harassment allegations and included calls made by staff to periodically test the line).

The auditor confirmed there are no inmates confined at this facility detained solely for civil immigration purposes.

Finding of compliance is based on the following: The policy demonstrates compliance with the standard, providing specific information on the options available to staff and inmates. The observations of the posters and the information provided, inmate interviews, and staff interviews all provided substantial evidence to support a finding of compliance.

Standard 115.52: Exhaustion of administrative remedies

115.52 (a)

- Is the agency exempt from this standard? NOTE: The agency is exempt ONLY if it does not have administrative procedures to address inmate grievances regarding sexual abuse. This does not mean the agency is exempt simply because an inmate does not have to or is not ordinarily expected to submit a grievance to report sexual abuse. This means that as a matter of explicit policy, the agency does not have an administrative remedies process to address sexual abuse. Yes No NA

115.52 (b)

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

115.52 (c)

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

115.52 (d)

- Does the agency issue a final agency decision on the merits of any portion of a grievance alleging sexual abuse within 90 days of the initial filing of the grievance? (Computation of the 90-day time period does not include time consumed by inmates in preparing any administrative appeal.) (N/A if agency is exempt from this standard.) Yes No NA

- If the agency claims the maximum allowable extension of time to respond of up to 70 days per 115.52(d)(3) when the normal time period for response is insufficient to make an appropriate decision, does the agency notify the inmate in writing of any such extension and provide a date by which a decision will be made? (N/A if agency is exempt from this standard.)
 Yes No NA
- At any level of the administrative process, including the final level, if the inmate does not receive a response within the time allotted for reply, including any properly noticed extension, may an inmate consider the absence of a response to be a denial at that level? (N/A if agency is exempt from this standard.) Yes No NA

115.52 (e)

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

115.52 (f)

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

- Does the initial response document the agency's action(s) taken in response to the emergency grievance? (N/A if agency is exempt from this standard.) Yes No NA
- Does the agency's final decision document the agency's action(s) taken in response to the emergency grievance? (N/A if agency is exempt from this standard.) Yes No NA

115.52 (g)

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

Auditor Overall Compliance Determination

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

The standard has the following requirements:

(a) An agency shall be exempt from this standard if it does not have administrative procedures to address inmate grievances regarding sexual abuse. (b)(1) The agency shall not impose a time limit on when an inmate may submit a grievance regarding an allegation of sexual abuse. (2) The agency may apply otherwise-applicable time limits to any portion of a grievance that does not allege an incident of sexual abuse. (3) The agency shall not require an inmate to use any informal grievance process, or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse. (4) Nothing in this section shall restrict the agency's ability to defend against an inmate lawsuit on the ground that the applicable statute of limitations has expired. (c) The agency shall ensure that— (1) An inmate who alleges sexual abuse may submit a grievance without submitting it to a staff member who is the subject of the complaint, and (2) Such grievance is not referred to a staff member who is the subject of the complaint. (d)(1) The agency shall issue a final agency decision on the merits of any portion of a grievance alleging sexual abuse within 90 days of the initial filing of the grievance. (2) Computation of the 90-day time period shall not include time consumed by inmates in preparing any administrative appeal. (3) The agency may claim an extension of time to respond, of up to 70 days, if the normal time period for response is insufficient to make an appropriate decision. The agency shall notify the inmate in writing of any such extension and provide a date by which a decision will be made. (4) At any level of the administrative process, including the final level, if the inmate does not receive a response within the time allotted for reply, including any properly noticed extension, the inmate may consider the absence of a response to be a denial at that level. (e)(1) Third parties, including fellow inmates, staff members, family members, attorneys, and outside advocates, shall be permitted to assist inmates in filing requests for administrative remedies relating to allegations of sexual abuse, and shall also be permitted to file such requests on behalf of inmates. (2) If a third party files such a request on behalf of an inmate, the facility may require as a condition of processing the request that the alleged victim agree to have the request filed on his or her behalf, and may also require the alleged victim to personally pursue any subsequent steps in the administrative remedy process. (3) If the inmate declines to have the request processed on his or her behalf, the agency shall document the inmate's decision. (f)(1) The agency

shall establish procedures for the filing of an emergency grievance alleging that an inmate is subject to a substantial risk of imminent sexual abuse. (2) After receiving an emergency grievance alleging an inmate is subject to a substantial risk of imminent sexual abuse, the agency shall immediately forward the grievance (or any portion thereof that alleges the substantial risk of imminent sexual abuse) to a level of review at which immediate corrective action may be taken, shall provide an initial response within 48 hours, and shall issue a final agency decision within 5 calendar days. The initial response and final agency decision shall document the agency's determination whether the inmate is in substantial risk of imminent sexual abuse and the action taken in response to the emergency grievance. (g) The agency may discipline an inmate for filing a grievance related to alleged sexual abuse only where the agency demonstrates that the inmate filed the grievance in bad faith.

PAQ reports there have been no grievances regarding sexual abuse, zero emergency grievances for sexual abuse, zero grievances written in bad faith for sexual abuse and zero third party grievances for sexual abuse.

BCSO-115R Grievance Procedure has a section entitled, PREA Reporting. Exhaustion of administrative remedies. It states the following: b1. *The agency shall not impose a time limit on when an inmate may submit a grievance regarding an allegation of sexual abuse.* B2. *The agency may apply otherwise-applicable time limits to any portion of a grievance that does not allege an incident of sexual abuse.* b3. *The agency shall not require an inmate to use any informal grievance process, or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse.* b.4 *Nothing in this section shall restrict the agency's ability to defend against an inmate lawsuit on the ground that the applicable statute of limitations has expired.* b5. c. *The agency shall ensure that— (1) An inmate who alleges sexual abuse may submit a grievance without submitting it to a staff member who is the subject of the complaint, and (2) Such grievance is not referred to a staff member who is the subject of the complaint.* (d)(1) *The agency shall issue a final agency decision on the merits of any portion of a grievance alleging sexual abuse within 90 days of the initial filing of the grievance. (2) Computation of the 90-day time period shall not include time consumed by inmates in preparing any administrative appeal.* (3) *The agency may claim an extension of time to respond, of up to 70 days, if the normal time period for response is insufficient to make an appropriate decision. The agency shall notify the inmate in writing of any such extension and provide a date by which a decision will be made.*(4) *At any level of the administrative process, including the final level, if the inmate does not receive a response within the time allotted for reply, including any properly noticed extension, the inmate may consider the absence of a response to be a denial at that level.* (e)(1) *Third parties, including fellow inmates, staff members, family members, attorneys, and outside advocates, shall be permitted to assist inmates in filing requests for administrative remedies relating to allegations of sexual abuse, and shall also be permitted to file such requests on behalf of inmates. (2) If a third party files such a request on behalf of an inmate, the facility may require as a condition of processing the request that the alleged victim agree to have the request filed on his or her behalf, and may also require the alleged victim to personally pursue any subsequent steps in the administrative remedy process. (3) If the inmate declines to have the request processed on his or her behalf, the agency shall document the inmate's decision.* (f)(1) *The agency shall establish procedures for the filing of an emergency grievance alleging that an inmate is subject to a substantial risk of imminent sexual abuse. 1. Hotline 413-555-1234 or *333 (no pin required) 2. Grievance in sealed envelope marked "EMERGENCY GRIEVANCE". f(2) After receiving an emergency grievance alleging*

an inmate is subject to a substantial risk of imminent sexual abuse, the agency shall immediately forward the grievance (or any portion thereof that alleges the substantial risk of imminent sexual abuse) to a level of review at which immediate corrective action may be taken, shall provide an initial response within 48 hours, and shall issue a final agency decision within 5 calendar days. The initial response and final agency decision shall document the agency's determination whether the inmate is in substantial risk of imminent sexual abuse and the action taken in response to the emergency grievance. (g) The agency may discipline an inmate for filing a grievance related to alleged sexual abuse only where the agency demonstrates that the inmate filed the grievance in bad faith.

The auditor interviewed one of the two Unit Managers who supervises the grievance process for the areas he supervises. The auditor was given full access to view all grievances since January 2018 to present. During all random interviews with inmates it was confirmed that grievances are readily available. One inmate explained the emergency grievance process to the auditor. Policy supports compliance with all subparts of the standard requirements.

Finding of compliance is based on the following: The policy, interview with the PREA Coordinator, Unit Manager, access to the grievances, observations on the tour, and randomly requested inmates all gave the auditor sufficient evidence to support a finding of compliance with this standard. It is noteworthy that one emergency grievance was received regarding sexual harassment that had occurred a few days prior to the submitting of the grievance. This demonstrated to the auditor that staff and inmates are aware of the process when an emergency grievance is filed.

Standard 115.53: Inmate access to outside confidential support services

115.53 (a)

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

115.53 (b)

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

115.53 (c)

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

Auditor Overall Compliance Determination

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

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

BCSO-017R-A Prevention of Sexual Abuse and Sexual Harassment of Inmates states, *Inmates who are victims of sexual abuse may consult with a victim advocate for emotional support services related to sexual abuse by contacting the Elizabeth Freeman Center, 43 Francis Avenue, Pittsfield, MA 01201. The Elizabeth Freeman Center maintains a toll-free hotline at (866) 401-2425 or *333 no pin required. Such communications are confidential and will not result in a sexual abuse report being made to the BCSO or a BCSO investigation of sexual abuse.*

There is an MOU with the Elizabeth Freeman Center (EFC) to provide Rape Counseling Services via phone 24 hours a day as well as provide a rape crisis advocate 24 hours a day. It is effective through June 2020. In it, the EFC agrees to send a trained rape crisis counselor to the hospital or the jail to provide rape counseling services to an inmate sexual assault victim when requested by the Jail and maintain confidentiality as required by state standards for certified crisis counselors. A telephone interview with the Director of Community Based Domestic Violence and Sexual Assault Program Operations was conducted on August 13, 2019. The Director confirmed the existence of the MOU and its agreement to provide the rape

counseling emotional support services and the rape crisis advocate. She indicated that she does not believe they have received any calls for the Jail and House of Correction, but also added that the manner in which the access by the telephone is set up, her staff would not know where the call has been placed from.

Randomly interviewed inmates know of the posters and that there is a Rape Crisis Counseling number. Most acknowledged they could get an address if they wanted it. As the numbers are posted by the phones, most indicated they know they did not have to use a PIN to make the call. Approximately half indicated after noticing the phone number and posters, that they are not aware of the services as they have no need for them. Others were able to make educated guesses. Most confirmed they know the phone call was free of charge to them and would be confidential. As stated, the inmate handbook provides detailed information on these services in addition to the numerous posters observed throughout the tour. Both have the phone number for this organization. In the revised posters which the facility posted, the addresses and phone numbers of the Elizabeth Freeman Center are clearly listed.

Finding of compliance is based on the following: The interview with the PREA Coordinator, Director for the EFC, observation of the posters throughout the facility, interviews with the randomly selected inmates and review of policy and the MOU all support strong evidence of compliance with this standard.

Standard 115.54: Third-party reporting

115.54 (a)

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

Auditor Overall Compliance Determination

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

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

The auditor reviewed the inmate handbook and confirmed that it provides this information. Poster and pamphlets provided to the inmate population provide this information. In addition,

the auditor found the information on the following webpage: <https://bcsoma.org/prea-policy/>. One third party investigation was generated while the auditor was conducting the on-site audit.

Finding of compliance is based on the following: Education materials, information on the webpage and review of the initial investigation occurring while the auditor was on site all provide evidence that the facility is compliant with the requirements of this standard.

OFFICIAL RESPONSE FOLLOWING AN INMATE REPORT

Standard 115.61: Staff and agency reporting duties

115.61 (a)

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

115.61 (b)

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

115.61 (c)

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

115.61 (d)

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

115.61 (e)

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

Auditor Overall Compliance Determination

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

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

BCSO-017R-A Prevention of Sexual Abuse and Sexual Harassment of Inmates states, STAFF RESPONSIBILITIES

- 1) *All BCSO staff (employees, contractors and volunteers) are responsible for contributing to the prevention of sexual abuse and sexual harassment.*
- 2) *All BCSO staff are responsible for familiarizing themselves with and complying with all BCSO policies and procedures including those pertaining to PREA, sexual abuse, and sexual harassment.*
- 3) *All BCSO staff are responsible for insuring that no person (staff, inmate, visitor, etc.) is retaliated against in any manner for having made a report in good faith about sexual abuse, sexual harassment, or for cooperating with an investigation into such matters.*
- 4) *All BCSO staff shall attend annual training on sexual abuse and sexual harassment and related subjects. (See BCSO 915.01 et seq.)*
- 5) *Staff must refrain from any conduct of a sexual nature while on the job, or while at any BCSO facility, or while attending any BCSO-affiliated function.*
- 6) *All staff, including but not limited to medical staff, mental health staff and clergy, must immediately report to the Shift Commander any knowledge, suspicion, or information regarding an incident of;*
 - a. *sexual abuse,*
 - b. *sexual harassment or*

- c. *other sexual misconduct.*
- d. *retaliation against any person for having reported sexual abuse or sexual harassment or for having cooperated with an investigation into such matters, or*
- e. *any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.*

Even a rumor or suspicion or information from an anonymous source that such conduct may have occurred must be reported. It is not your job to assess the credibility of the information – just report it. If the Shift Commander is allegedly involved in the misconduct, the staff member must immediately report the incident to the Director of Security, Assistant Superintendent, the Superintendent or on-call administrator.

In addition to policy quoted above, the response plan ensures that all allegations are reported to the investigators. Interview with the investigators confirmed they have been notified of all allegations of sexual harassment and sexual abuse. They indicate they would also be notified of any allegations of retaliation or staff neglect that led to sexual harassment and sexual abuse (this would also be assessed during the investigation). This was confirmed in the interview with one of the unit managers who monitor for any retaliation against inmates.

All interviews with randomly selected staff and medical/mental health staff confirmed without hesitation that any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in a facility, whether or not it is part of the agency; retaliation against inmates or staff who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation would be immediately reported. They indicated they would report to the shift commander, while notifying their immediate supervisor. All staff interviews confirmed that confidentiality regarding the situation would be maintained. Review of the investigations supported compliance with this requirement, noting that investigations were generated from inmate reports to staff and mental health staff.

Inmates sign an informed consent form at the mental health screening which informs them that any information related to sexual victimization or abusiveness that occurred in an institutional setting shall be strictly limited to medical and mental health practitioners and other staff, as necessary to inform treatment plans and security and management decisions, including housing, bed, work, education and program assignments, or as otherwise required by federal, state or local law. Medical and mental health staff interviews confirmed that any information related to sexual victimization that did not occur in an institutional setting will not be reported to anyone outside the BCSO without approval unless required by law (e.g. under 18, 60+, disabled, court order, etc.).

As stated, there are no inmates housed in this facility under the age of 18. The Elder Abuse <https://www.mass.gov/reporting-elder-abuse-neglect> states Elder Protective Services can only investigate cases of abuse where the person is age 60 and over and lives in the community. Nevertheless, the requirements are supported in the policy. And, in this county, as reported by the Mental Health Director and PREA Coordinator, they will report any allegations of sexual abuse that occurred when an individual was under the age of 18 years old at the time of the incident, or does fall under the definition of Elder Abuse with the support of their District Attorney.

Finding of compliance is based on the following: Policy, staff interviews, mental health consent form and reviews of completed investigations and the training curriculum all provided the auditor with sufficient evidence to support a finding of compliance.

Standard 115.62: Agency protection duties

115.62 (a)

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

Auditor Overall Compliance Determination

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

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

Interviews with the Sheriff, Superintendent and random staff all indicated that staff have support in the event they believe an inmate is at risk of imminent sexual abuse, that immediate action can and will be taken. The PAQ reports this has not occurred in the previous 12 months. During the audit process, the auditor found no reason to dispute this. In addition, the grievance policy addresses the emergency grievance process which provides an avenue for an inmate to confidentially report fear of imminent sexual abuse; the grievance will be forwarded to the appropriate supervisor on duty for immediate action.

Finding of compliance is based on the following: Interviews with the Sheriff, Superintendent and random staff, in addition to the policy quoted above provides sufficient evidence to support a finding of compliance.

Standard 115.63: Reporting to other confinement facilities

115.63 (a)

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

115.63 (b)

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

115.63 (c)

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

115.63 (d)

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

Auditor Overall Compliance Determination

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

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

BCSO-017R-A Prevention of Sexual Abuse and Sexual Harassment of Inmates states, *When an inmate reports having been sexually abused in another correctional facility not under BCSO jurisdiction, a written report shall be made by the Shift Supervisor to the Sheriff and PREA Coordinator and the Mental Health Department. The Sheriff or his designee will then notify the head of the facility where the abuse occurred within 72 hours. This notification shall be documented.*

The interview with the Sheriff and the Superintendent confirmed that if an allegation was received from another facility regarding sexual abuse that occurred at this facility it would be immediately investigated, in accordance with their policy. Also, if an inmate at this facility reported sexual abuse that occurred at another facility, it would be reported to the head of that facility by the Superintendent, within the 72 hours as required by the standard.

PAQ reports that no allegations were received that inmate was abused while confined at another facility in the previous 12 months. The facility further reported that no allegations were received from another facility that an inmate had experienced sexual abuse at this facility. This was confirmed by the review of the investigations. However, the facility did receive an allegation from the local police regarding an allegation of sexual assault by the police which was reported back to the Chief of Police for that jurisdiction immediately.

Finding of compliance is based on the following: Interviews with the Sheriff and Superintendent, policy, interview with the investigators and review of the notices sent to other

facilities, by the Sheriff, within the 72 hour requirement and investigations provide sufficient evidence to support a finding of compliance with this standard.

Standard 115.64: Staff first responder duties

115.64 (a)

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

115.64 (b)

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

Auditor Overall Compliance Determination

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

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

that still allows for the collection of physical evidence, ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating. (b) If the first staff responder is not a security staff member, the responder shall be required to request that the alleged victim not take any actions that could destroy physical evidence, and then notify security staff.

BCSO-017R-A Prevention of Sexual Abuse and Sexual Harassment of Inmates states,

7) *First Responder Duties § 115.64*

a. *The first security staff member to respond to any incident of sexual abuse shall immediately separate the alleged victim from the alleged abuser, secure both inmates, preserve and secure any potential crime scene until appropriate steps can be taken to collect any evidence and await further instructions from the Shift Commander.*

b. *If the abuse occurred within a time period that still allows for the collection of physical evidence, request that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating; and*

c. *If the abuse occurred within a time period that still allows for the collection of physical evidence, ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating.*

d. *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.*

8) *In addition to reporting the matter, the employee must complete a Sexual Misconduct with Inmate Reporting Form whenever an inmate is the alleged subject of sexual abuse or sexual harassment (Attachment 1). This form must be submitted to the shift commander as soon as possible and no later than the end of the staff member's shift.*

9) *All staff shall immediately contact the Shift Commander upon receipt of an emergency grievance.*

Upon being notified of an alleged incident of sexual harassment, the Shift Commander shall directly notify the Director of Security, the Assistant Superintendent, or the Superintendent or, in their absence, the on-call administrator.

Upon being notified of an alleged incident of sexual abuse, the Shift Commander shall implement the Sexual Abuse Response Plan.

The Administrator receiving notice of any alleged incident of sexual harassment or sexual abuse shall direct the BCSO investigative unit to conduct an investigation.

All staff must fully cooperate with any investigation into alleged sexual abuse or harassment.

Staff shall not reveal any information related to a sexual abuse report to anyone other than those involved in the investigation.

The PAQ and review of the investigations support that staff have not had to act as a first responder in regards to preserving evidence. In the event there is potential for evidence, the facility maintains a PREA kits (sheet and pad to collect forensic evidence while collecting inmate clothing, evidence bags and tags, chain of custody form, etc.) in the intake area (pointed out to the auditor during the tour) Staff have responded to inmate allegations that they had been sexually abused/harassed. All random interviews support that staff are knowledgeable regarding what to do in the event they have to act as the first responder. Staff carry response cards which reinforces how to respond - to separate the victim from the perpetrator and the area and preserve evidence. The auditor also reviewed the training curriculum which reiterated this process as stated in the policy.

Finding of compliance is based on the following: The Auditor found the policy, training curriculum, existence of PREA response kits and staff knowledge of them, staff interviews all provide evidence to support a finding of compliance. The auditor found no reason to dispute that no occurrence requiring staff to act as first responders has occurred in the previous twelve months during the audit process after reviewing the investigations.

Standard 115.65: Coordinated response

115.65 (a)

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

Auditor Overall Compliance Determination

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

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

A Coordinated Response Plan specific to BCSO detailed the information in the policy with who to contact. As stated, staff have small laminated response cards to help ensure they address all the details of the plan. The interview with the Superintendent stated knowledge and support of the process and the staff first responders, medical and mental health practitioners, investigators, and facility leadership. The auditor reviewed the Coordinated Response Plan. It is very detailed and addresses the following: First Responder Duties, Immediate Response,

phone numbers/address for the medical center, special circumstances (disabled, greater than 60), the investigation process, post investigation process (employees, volunteers, contractors, inmates), and confidentiality.

Finding of compliance is based on the following: Review of the policy, coordinated plan, interview with the Superintendent and random staff interviews all provided the auditor with sufficient evidence to give a finding of compliance. The auditor finds the plan to be specific and meaningful.

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

115.66 (a)

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

115.66 (b)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

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

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

BCSO-017R-A Prevention of Sexual Abuse and Sexual Harassment of Inmates states,

CORRECTIVE ACTION

The BCSO will not enter into any collective bargaining 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.

The auditor was provided the contract for the International Brotherhood of Correctional Officers (Local R1-297) effective through June 2020 which does not impede 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. The union contract references the preponderance of evidence standard for discipline and discharge cases. The interview with the Sheriff confirmed that they are no obstacles to the disciplinary process in regards to a PREA allegation from any of the unions.

Finding of compliance is based on the following: Review of the policy, agreements with the union, and interviews with the Sheriff and union president all provide sufficient evidence for the auditor to find this standard compliance.

Standard 115.67: Agency protection against retaliation

115.67 (a)

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

115.67 (b)

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

115.67 (c)

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

- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Act promptly to remedy any such retaliation? Yes No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor any inmate disciplinary reports? Yes No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor inmate housing changes? Yes No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor inmate program changes? Yes No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor negative performance reviews of staff? Yes No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor reassignments of staff? Yes No
- Does the agency continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need? Yes No

115.67 (d)

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

115.67 (e)

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

115.67 (f)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

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

Does Not Meet Standard (*Requires Corrective Action*)

The standard has the following requirements: (a) The agency shall establish a policy to protect all inmates and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other inmates or staff, and shall designate which staff members or departments are charged with monitoring retaliation. (b) The agency shall employ multiple protection measures, such as housing changes or transfers for inmate victims or abusers, removal of alleged staff or inmate abusers from contact with victims, and emotional support services for inmates or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations. (c) For at least 90 days following a report of sexual abuse, the agency shall monitor the conduct and treatment of inmates or staff who reported the sexual abuse and of inmates who were reported to have suffered sexual abuse to see if there are changes that may suggest possible retaliation by inmates or staff, and shall act promptly to remedy any such retaliation. Items the agency should monitor include any inmate disciplinary reports, housing, or program changes, or negative performance reviews or reassignments of staff. The agency shall continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need. (d) In the case of inmates, such monitoring shall also include periodic status checks. (e) If any other individual who cooperates with an investigation expresses a fear of retaliation, the agency shall take appropriate measures to protect that individual against retaliation. (f) An agency's obligation to monitor shall terminate if the agency determines that the allegation is unfounded.

PAQ reports that there have been no incidents of retaliation in the past 12 months. During the audit process, the auditor found no evidence to dispute this.

BCSO-017R-A Prevention of Sexual Abuse and Sexual Harassment of Inmates states, POST INCIDENT MONITORING & PROTECTION AGAINST RETALIATION All inmates and staff who report sexual abuse or sexual harassment or who cooperate with sexual abuse or sexual harassment investigations will be protected against retaliation by other inmates or staff. Unit Managers shall be charged with monitoring their respective units for any evidence of retaliation. For at least 90 days following a report of sexual abuse, unit managers shall monitor the conduct and treatment of staff who have reported sexual abuse and of inmates who were reported to have suffered sexual abuse to see if there are any changes that may suggest possible relation by inmates or staff. At a minimum, unit managers shall monitor inmate disciplinary reports, housing or program changes or negative performance reviews or reassignments of staff. Such monitoring shall also include speaking directly with the inmate or staff member on a regular basis during any monitoring period. Any information concerning alleged retaliation shall be immediately reported and remedied. If circumstances indicate a need for continued monitoring, the unit managers shall continue to monitor for, document and report any retaliation for as long as there is a need.

The BCSO employs multiple protection measures such as housing changes or transfers for inmate victims or abusers, removal of alleged staff or inmate abusers from contact with victims, and emotional support services for inmates or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperation with investigations.

The monitoring obligation shall terminate if the allegation is determined to be unfounded.

The Sheriff and the Superintendent were interviewed regarding retaliation. Both affirmed a

strong commitment to ensure that no retaliation occurs if an allegation of sexual abuse and sexual harassment is made. The Unit Managers are tasked with completing the retaliation monitoring. In their interview, they indicated they interview the complainant at regular intervals, monitor phone calls, review work and programming assignments and document their efforts. They state the monitoring will occur for up to 90 days, longer if needed. A detailed form is an attachment to the policy. The auditor reviewed the retaliation monitoring forms when reviewing investigations. On all occasion monitoring did not occur up to 90 days as the inmate had left the facility. Monitoring was initiated at the time of the complaint. The monitoring did not include checking on staff during the previous twelve months as it was not relevant to any investigations reviewed. There were two inmates currently housed at the jail that had previously been the alleged victim of a sexual abuse or sexual harassment allegation. Both confirmed they had not experienced anything they believed to be retaliation and believed that the situation was appropriately handled. Monitoring review forms provide for a narrative report in addition to boxes to alert for possible checks of the following: informatives, D-reports, new enemies, grievances.

Finding of compliance is based on the following: Policy, retaliation monitoring form, interviews with the Sheriff, Superintendent, a unit manager and investigations and review of completed forms all support a finding of compliance with this standard.

Standard 115.68: Post-allegation protective custody

115.68 (a)

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

Auditor Overall Compliance Determination

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

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

During the audit process, the auditor found no instance of an inmate placed in segregated housing for protection who has suffered sexual abuse.

Finding of compliance is based on the following: See comments to § 115.43.

INVESTIGATIONS

Standard 115.71: Criminal and administrative agency investigations

115.71 (a)

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

115.71 (b)

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

115.71 (c)

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

115.71 (d)

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

115.71 (e)

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

115.71 (f)

- Do administrative investigations include an effort to determine whether staff actions or failures to act contributed to the abuse? Yes No

- Are administrative investigations documented in written reports that include a description of the physical evidence and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings? Yes No

115.71 (g)

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

115.71 (h)

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

115.71 (i)

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

115.71 (j)

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

115.71 (k)

- Auditor is not required to audit this provision.

115.71 (l)

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

Auditor Overall Compliance Determination

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

The standard has the following requirements: (a) When the agency conducts its own investigations into allegations of sexual abuse and sexual harassment, it shall do so promptly, thoroughly, and objectively for all allegations, including third-party and anonymous reports. (b) Where sexual abuse is alleged, the

agency shall use investigators who have received special training in sexual abuse investigations pursuant to § 115.34. (c) Investigators shall gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data; shall interview alleged victims, suspected perpetrators, and witnesses; and shall review prior complaints and reports of sexual abuse involving the suspected perpetrator. (d) When the quality of evidence appears to support criminal prosecution, the agency shall conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution. (e) The credibility of an alleged victim, suspect, or witness shall be assessed on an individual basis and shall not be determined by the person's status as inmate or staff. No agency shall require an inmate who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an allegation. (f) Administrative investigations: (1) Shall include an effort to determine whether staff actions or failures to act contributed to the abuse; and (2) Shall be documented in written reports that include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings. (g) Criminal investigations shall be documented in a written report that contains a thorough description of physical, testimonial, and documentary evidence and attaches copies of all documentary evidence where feasible. (h) Substantiated allegations of conduct that appears to be criminal shall be referred for prosecution. (i) The agency shall retain all written reports referenced in paragraphs (f) and (g) of this section for as long as the alleged abuser is incarcerated or employed by the agency, plus five years. (j) The departure of the alleged abuser or victim from the employment or control of the facility or agency shall not provide a basis for terminating an investigation. (k) Any State entity or Department of Justice component that conducts such investigations shall do so pursuant to the above requirements. (l) When outside agencies investigate sexual abuse, the facility shall cooperate with outside investigators and shall endeavor to remain informed about the progress of the investigation.

BCSO-017R-A Prevention of Sexual Abuse and Sexual Harassment of Inmates states,
INVESTIGATIONS

- 1) *All allegations of sexual abuse, sexual harassment or other sexual misconduct involving any staff or inmate shall be promptly, thoroughly and objectively investigated.*
- 2) *Allegations of sexual abuse shall be investigated by investigators who have received specialized training in sexual abuse investigations in confinement.*
- 3) *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.*
- 4) *When the quality of evidence appears to support criminal prosecution, the agency shall conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution.*
- 5) *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. The BCSO shall not 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.*
- 6) *Administrative investigations:*
 - a. *Shall include an effort to determine whether staff actions or failures to act contributed to the abuse; and*

b. Shall be documented in written reports that include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings.

7) 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.

8) Substantiated allegations of conduct that appear to be criminal shall be referred for prosecution.

9) The agency shall retain all written investigation reports for as long as the alleged abuser is incarcerated or employed by the agency, plus five years.

10) The departure of the alleged abuser or victim from the employment or control of the BCSO shall not provide a basis for terminating an investigation.

11) Any State entity or Department of Justice component that conducts such investigations shall do so pursuant to the above requirements.

12) When outside agencies investigate sexual abuse, the facility shall cooperate with outside investigators and shall endeavor to remain informed about the progress of the investigation.

13) Allegations of sexual abuse or sexual harassment shall result in one of the following:
Substantiated allegation – allegation was investigated and determined to have occurred
Unsubstantiated allegation – allegation was investigated and the investigation produced insufficient evidence to make a final determination as to whether or not the event occurred.
Unfounded allegation – allegation was investigated and determined not to have occurred.
Substantiated allegation of sexual misconduct, not covered by PREA – allegation was substantiated but sexual misconduct involved was not covered by PREA (sexual harassment not repeated, sexual misconduct not involving an inmate as the victim, etc.)

14) The standard of proof for making a determination as to whether allegations of sexual harassment or sexual abuse are substantiated shall be a preponderance of the evidence.

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

Interviews with the investigators all confirmed that they are contacted immediately, they have been appropriately trained regarding the collection of evidence, they consult with the District Attorney when the allegation appears criminal, credibility of witnesses is based on facts, not their status of staff or inmate, a review of staff actions is made with every investigation, allegations are deemed substantiated, unsubstantiated or unfounded based on a preponderance of the evidence, at this point all reports are retained forever, and the investigation continues even if there is a departure of staff or the inmate involved. As stated in the narrative, Investigations are conducted by eight staff who has received specialized training. Investigations from the previous 12 months were reviewed, there were seventeen (17) total. Eight (8) were determined to not meet the definition of sexual abuse or sexual harassment in accordance with the definitions established by the Department of Justice. The remaining nine (9) occurred as follows:

One (1) staff on inmate sexual abuse allegation

One (1) staff on inmate sexual harassment allegation
Six (6) inmate on inmate sexual abuse allegations
One (1) inmate on inmate sexual harassment allegation
Zero retaliation allegations

Four allegations were deemed substantiated, three were deemed unsubstantiated, two were deemed unfounded. The auditor reviewed the appropriate notifications and monitoring retaliation documentation where it was warranted.

The investigators reported that any and all allegations that may appear to meet the definition are investigated until the investigation established that it was not a "PREA" incident. During the past 12 months, no allegations were referred for criminal prosecution. However, prior to the 12 month period investigation were referred for prosecution and to the licensing board. This documentation was readily provided to the auditor for review.

The auditor was provided the data base which possesses all information regarding all aspects of the investigation for close review and analysis. This data base affords the agency to maintain documentation for review and analysis of every aspect of the investigation process. This includes the initial report, statements, audio interviews, video evidence maintained, notifications, 90 day monitoring reviews, and statistics on investigations.

Finding of compliance is based on the following: Policy and the interviews with the investigations, in addition to review of the investigations all support a finding of compliance with all requirements of this standard. As stated, review of this database supports that the facility investigates all allegations that may appear to fall under the definition of a violation of the PREA policy, until the investigation confirms otherwise. The data base permits tracking to see if the same inmate or staff member is involved in multiple incidents and whether there is a pattern demonstrated by the incidents (incidents occurring in a certain area or during a certain time of day). For these reasons the auditor finds sufficient evidence to support finding of exceeds standard.

Standard 115.72: Evidentiary standard for administrative investigations

115.72 (a)

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

Auditor Overall Compliance Determination

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

Does Not Meet Standard (*Requires Corrective Action*)

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

BCSO-017R-A Prevention of Sexual Abuse and Sexual Harassment of Inmates states, *INVESTIGATIONS*

14) *The standard of proof for making a determination as to whether allegations of sexual harassment or sexual abuse are substantiated shall be a preponderance of the evidence.*

The interviews with the investigators and the review of the completed investigations support a finding of compliance. Findings deemed substantiated and unfounded were based on a preponderance of evidence.

Finding of compliance is based on the following: Policy, investigations, interviews, and training curriculum all support a finding of compliance with this standard.

Standard 115.73: Reporting to inmates

115.73 (a)

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

115.73 (b)

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

115.73 (c)

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

whenever: The agency learns that the staff member has been indicted on a charge related to sexual abuse in the facility? Yes No

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

115.73 (d)

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

115.73 (e)

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

115.73 (f)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

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

The standard has the following requirements: (a) Following an investigation into an inmate's allegation that he or she suffered sexual abuse in an agency facility, the agency shall inform the inmate as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded. (b) If the agency did not conduct the investigation, it shall request the relevant information from the investigative agency in order to inform the inmate. (c) Following an inmate's allegation that a staff member has committed sexual abuse against the inmate, the agency shall subsequently inform the inmate (unless the agency has determined that the allegation is unfounded) whenever: (1) The staff member is no longer posted within the inmate's unit; (2) The staff member is no longer employed at the facility; (3) The agency learns that the staff member has been indicted on a charge related to sexual abuse within the facility; or (4) The agency learns that the staff member has been convicted on a charge related to sexual abuse within the facility. (d) Following an inmate's allegation

that he or she has been sexually abused by another inmate, the agency shall subsequently inform the alleged victim whenever: (1) The agency learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility; or (2) The agency learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility. (e) All such notifications or attempted notifications shall be documented. (f) An agency's obligation to report under this standard shall terminate if the inmate is released from the agency's custody.

BCSO-017R-A Prevention of Sexual Abuse and Sexual Harassment of Inmates states,
REPORTING TO INMATES

1) *Following an investigation into an inmate's allegation that he or she suffered sexual abuse in a BCSO facility, the BCSO shall inform the inmate as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded.*

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

3) *Following an inmate's allegation that a staff member has committed sexual abuse against the inmate, the BCSO shall subsequently inform the inmate (unless the agency has determined that the allegation is unfounded) whenever:*

The staff member is no longer posted within the inmate's unit;

The staff member is no longer employed at the facility;

The agency learns that the staff member has been indicted on a charge related to sexual abuse within the facility; or

The agency learns that the staff member has been convicted on a charge related to sexual abuse within the facility.

4) *Following an inmate's allegation that he or she has been sexually abused by another inmate, the BCSO shall subsequently inform the alleged victim whenever:*

The BCSO learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility; or

The BCSO learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility.

All such notifications or attempted notifications shall be documented.

An agency's obligation to report under this standard shall terminate if the inmate is released from the BCSO's custody.

The auditor requested and received copies of all notification forms for the previous 12 months and was given all notices which correlate to the investigations reviewed. Interviews conducted with the Superintendent and the investigators all confirmed that notifications are issued in accordance with the standard. The notices are compliant with the requirements of the standard.

Finding of compliance is based on the following: Review of policy, notification forms, actual notifications and interviews with the Superintendent and investigators all provide evidence of compliance with this standard.

DISCIPLINE

Standard 115.76: Disciplinary sanctions for staff

115.76 (a)

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

115.76 (b)

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

115.76 (c)

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

115.76 (d)

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

Auditor Overall Compliance Determination

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

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

PAQ states that no staff has been disciplined for perpetrating sexual abuse or sexual harassment in the previous 12 months. Review of the investigations and staff who were randomly questioned during the audit supported this fact. The auditor found no reason to dispute this. The auditor was provided documentation of corrective action for staff that occurred since the previous audit, but occurring outside of the past 12 months. This included a referral to the licensing board and criminal prosecution.

BCSO-017R-A Prevention of Sexual Abuse and Sexual Harassment of Inmates states,

CORRECTIVE ACTION

Employees who engage in conduct in violation of this policy subject themselves to disciplinary action up to and including dismissal, civil liability and criminal prosecution. Termination is the presumptive disciplinary sanction for staff who engage in sexual abuse.

Finding of compliance is based on the following: The policy, review of investigations and random inquiries and review of documentation outside the 12 month period support that the facility will discipline staff up to termination and will report any concerns to the licensing board.

Standard 115.77: Corrective action for contractors and volunteers

115.77 (a)

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

115.77 (b)

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

Auditor Overall Compliance Determination

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

The standard has the following requirements: (a) Any contractor or volunteer who engages in sexual abuse shall be prohibited from contact with inmates and shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies. (b) The facility shall take appropriate remedial measures, and shall consider whether to prohibit further contact with inmates, in the case of any other violation of agency sexual abuse or sexual harassment policies by a contractor or volunteer.

PAQ states that no contractors or volunteers have been reported to law enforcement and/or relevant licensing bodies. During the audit process, the auditor found no reason to dispute this fact. The Superintendent was interviewed regarding what action could and would be taken in the event concerns arose regarding a contractor or volunteer. He responded that they would be removed pending the investigation, and during or after the results of the investigation, if substantiated and criminal, it would be referred to the District Attorney and any relevant licensing bodies.

BCSO-017R-A Prevention of Sexual Abuse and Sexual Harassment of Inmates states,

CORRECTIVE ACTION

Any contractor or volunteer who engages in sexual misconduct, shall be prohibited from contact with inmates, shall be reported to relevant licensing bodies, and shall be reported to law enforcement agencies, unless the conduct was clearly not criminal. Such contractors and volunteers may also be subject to termination of their affiliation with the BCSO and barred from entering BCSO premises.

Finding of compliance is based on the following: Based on the PAQ, policy, review of investigations and interview with the Superintendent, the auditor finds sufficient evidence to support a finding of compliance.

Standard 115.78: Disciplinary sanctions for inmates

115.78 (a)

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

115.78 (b)

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

115.78 (c)

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

115.78 (d)

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

115.78 (e)

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

115.78 (f)

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

115.78 (g)

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

Auditor Overall Compliance Determination

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

The standard has the following requirements: (a) Inmates shall be subject to disciplinary sanctions pursuant to a formal disciplinary process following an administrative finding that the inmate engaged in inmate-on-inmate sexual abuse or following a criminal finding of guilt for inmate-on-inmate sexual abuse. (b) Sanctions shall be commensurate with the nature and circumstances of the abuse committed, the inmate's disciplinary history, and the sanctions imposed for comparable offenses by other inmates with similar histories. (c) The disciplinary process shall consider whether an inmate's mental disabilities or mental illness contributed to his or her behavior when determining what type of sanction, if any, should be imposed. (d) If the facility offers therapy, counseling, or other interventions designed to address and correct underlying reasons or motivations for the abuse, the facility shall consider whether to require the offending inmate to participate in such interventions as a condition of access to programming or other benefits. (e) The agency may discipline an inmate for sexual contact with staff only upon a finding that the staff member did not consent to such contact. (f) For the purpose of disciplinary action, a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred shall not constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation. (g) An agency may, in

its discretion, prohibit all sexual activity between inmates and may discipline inmates for such activity. An agency may not, however, deem such activity to constitute sexual abuse if it determines that the activity is not coerced.

The interview with the Superintendent supported that inmates will be disciplined is 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.

BCSO-017R-A Prevention of Sexual Abuse and Sexual Harassment of Inmates states,

CORRECTIVE ACTION

Inmates who violate this policy shall be subject the disciplinary action, civil liability and criminal prosecution.

In addition, the Berkshire County Sheriff's Office Sexual Abuse Response Plan indicates, 1. *Inmates shall be subject to disciplinary sanctions pursuant to the BCSO inmate disciplinary process following an administrative finding that the inmate engaged in inmate-on-inmate sexual abuse or following a criminal finding of guilt for inmate-on-inmate sexual abuse.* 2. *Sanctions shall be commensurate with the nature and circumstances of the abuse committed, the inmate's disciplinary history, and the sanctions imposed for comparable offenses by other inmates with similar histories.* 3. *The disciplinary process shall consider whether an inmate's mental disabilities or mental illness contributed to his or her behavior when determining what type of sanction, if any, should be imposed.* 4. *If the facility offers therapy, counseling, or other interventions designed to address and correct underlying reasons or motivations for the abuse, the facility shall consider whether to require the offending inmate to participate in such interventions as a condition of access to programming or other benefits.* 5. *The BCSO may discipline an inmate for sexual contact with staff only upon a finding that the staff member did not consent to such contact.* 6. *For the purpose of disciplinary action, a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred shall not constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation.* 7. *BCSO policy goes beyond PREA standards in prohibiting all sexual activities between inmates. Inmate-on-inmate sexual activity, while it may lead to discipline under BCSO policy, will not be considered sexual abuse unless it is coerced.*

PAQ states there has been one instance of inmate on inmate abuse. The investigation was reviewed; it was not referred for criminal prosecution. It involved physical grabbing of another inmate. Two additional misconducts were reviewed which demonstrated disciplinary action taken against inmates for behavior directed to staff; the reports demonstrated that the staff did not consent to the behavior.

Finding of compliance is based on the following: Policy, the Berkshire County Sheriff's Office Sexual Abuse Response Plan, interview with the Superintendent, review of the inmate disciplinary cases noted all provide sufficient evidence for the auditor to support a finding of compliance.

MEDICAL AND MENTAL CARE

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

115.81 (a)

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

115.81 (b)

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

115.81 (c)

- If the screening pursuant to § 115.41 indicates that a jail inmate has experienced prior sexual victimization, whether it occurred in an institutional setting or in the community, do staff ensure that the inmate is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening? Yes No

115.81 (d)

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

115.81 (e)

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

Auditor Overall Compliance Determination

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

Does Not Meet Standard (*Requires Corrective Action*)

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

Subpart (a) and (b) are not applicable to this facility as it is a jail.

BCSO-017R-A Prevention of Sexual Abuse and Sexual Harassment of Inmates states,

Within 14 days of the intake screening, any inmate who has experienced sexual victimization, whether it occurred in an institutional setting or in the community, shall be offered a follow-up meeting with a mental health clinician. § 115.81(c)

The underlying information used to classify an inmate as sexually aggressive or sexually vulnerable shall only be available to staff who have a need to know that information. § 115.41(i) Further, any information related to sexual victimization or abusiveness that occurred in an institutional setting shall be strictly limited to medical and mental health practitioners and other staff, as necessary, to inform treatment plans and security and management decisions, including housing, bed, work, education and program assignments, or as otherwise required by Federal, State or local law. § 115.81(d)

8) Whenever an inmate is identified as sexually vulnerable or sexually aggressive (during the initial intake or during any subsequent review), the staff member identifying the inmate as such shall notify mental health.

Intake at this facility is conducted by an intake officer, then the nurse, then mental health staff. Therefore the referral to mental health is immediate if an inmate reports prior victimization. The auditor requested and received the risk assessment for randomly selected inmates; none reported a history of sexual victimization. In addition, the interview with the Mental Health Director confirmed that referrals are made and evaluations are conducted immediately. Other documentation shared with the auditor supports that any information received on intake that would lead the assessor to believe the inmate is vulnerable is automatically shared with mental health.

Interviews with the intake officer, intake nurse, the Health Services Administrator and the

Mental Health Director confirm that informed consent will be obtained prior to reporting sexual abuse that did not occur in the jail or other institutionalized setting. As stated, there are no inmates under the age of 18 at this facility. These interviews also confirmed that any information related to sexual victimization or abusiveness that occurred in an institutional setting shall be strictly limited to medical and mental health practitioners and other staff, as necessary, to inform treatment plans and security and management decisions, housing, bed, work, education, and program assignments.

Inmates sign an informed consent form at the mental health screening which informs them that any information related to sexual victimization or abusiveness that occurred in an institutional setting shall be strictly limited to medical and mental health practitioners and other staff, as necessary to inform treatment plans and security and management decisions, including housing, bed, work, education and program assignments, or as otherwise required by federal, state or local law. Any information related to sexual victimization that did not occur in an institutional setting will not be reported to anyone outside the BCSO without approval unless required by law (e.g. under 18, 60+, disabled, court order, etc.)

Finding of compliance is based on the following: Interviews and policy support a finding of compliance. During the audit process, interviews with staff confirmed that staff operates on a need-to-know basis. The records regarding sexual victimization are secured electronically and access to this information is controlled.

Standard 115.82: Access to emergency medical and mental health services **115.82 (a)**

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

115.82 (b)

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

115.82 (c)

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

115.82 (d)

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

Auditor Overall Compliance Determination

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

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

BCSO-017R-A Prevention of Sexual Abuse and Sexual Harassment of Inmates states,

ACCESS TO EMERGENCY MEDICAL AND MENTAL HEALTH SERVICES

1) *Inmate victims of sexual abuse shall receive timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by medical and mental health practitioners according to their professional judgment.*

2) *If no qualified medical or mental health practitioners are on duty at the time a report of recent abuse is made, security staff first responders shall take preliminary steps to protect the victim as noted above in Section IV and shall immediately notify the appropriate medical and mental health practitioners.*

3) *Inmate victims of sexual abuse while incarcerated shall be offered timely information about and timely access to emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care, where medically appropriate.*

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

5) *The facility shall offer medical and mental health evaluation and, as appropriate, treatment to all inmates who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility.*

6) *The evaluation and treatment of such victims shall include, as appropriate, follow-up*

services, treatment plans, and, when necessary, referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody.

7) The BCSO shall provide such victims with medical and mental health services consistent with the community level of care.

8) Inmate victims of sexually abusive vaginal penetration while incarcerated shall be offered pregnancy tests.

9) If pregnancy results from sexual abuse, such victims shall receive timely and comprehensive information about and timely access to all lawful pregnancy-related medical services.

10) Inmate victims of sexual abuse while incarcerated shall be offered tests for sexually transmitted infections as medically appropriate.

The interview with the HSA confirmed that inmates will be provided timely, unimpeded access to emergency medical treatment. The PAQ indicates there have been no instances which required emergency medical treatment and crisis intervention due to sexual abuse. The auditor found no reason to dispute this during the audit process.

Finding of compliance is based on the following: Policy and interview with the HSA provided sufficient evidence to support a finding of compliance with this standard, that in the event of a sexual abuse incident, the victim would be provided these services.

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

115.83 (a)

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

115.83 (b)

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

115.83 (c)

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

115.83 (d)

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

115.83 (e)

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

115.83 (f)

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

115.83 (g)

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

115.83 (h)

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

Auditor Overall Compliance Determination

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

The standard has the following requirements: (a) The facility shall offer medical and mental health evaluation and, as appropriate, treatment to all inmates who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility. (b) The evaluation and treatment of such victims shall include, as appropriate, follow-up services, treatment plans, and, when necessary, referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody. (c) The facility shall provide such victims with medical and mental health services consistent with the community level of care. (d) Inmate victims of sexually abusive vaginal penetration while incarcerated shall be offered pregnancy tests. (e) If pregnancy results from the conduct described in paragraph (d) of this section, such victims shall receive timely and comprehensive information about and timely access to all lawful pregnancy-related medical services. (f) Inmate victims of sexual abuse while incarcerated shall be offered tests for sexually transmitted infections as medically appropriate. (g) Treatment services shall be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident. (h) All prisons shall attempt to conduct a mental health evaluation of all known inmate-on-inmate abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate by mental health practitioners.

BCSO-017R-A Prevention of Sexual Abuse and Sexual Harassment of Inmates states,

ACCESS TO EMERGENCY MEDICAL AND MENTAL HEALTH SERVICES

- 1) *Inmate victims of sexual abuse shall receive timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by medical and mental health practitioners according to their professional judgment.*
- 2) *If no qualified medical or mental health practitioners are on duty at the time a report of recent abuse is made, security staff first responders shall take preliminary steps to protect the victim as noted above in Section IV and shall immediately notify the appropriate medical and mental health practitioners.*
- 3) *Inmate victims of sexual abuse while incarcerated shall be offered timely information about and timely access to emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care, where medically appropriate.*
- 4) *Treatment services shall be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.*
- 5) *The facility shall offer medical and mental health evaluation and, as appropriate, treatment to all inmates who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility.*
- 6) *The evaluation and treatment of such victims shall include, as appropriate, follow-up services, treatment plans, and, when necessary, referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody.*
- 7) *The BCSO shall provide such victims with medical and mental health services consistent with the community level of care.*
- 8) *Inmate victims of sexually abusive vaginal penetration while incarcerated shall be offered pregnancy tests.*
- 9) *If pregnancy results from sexual abuse, such victims shall receive timely and comprehensive information about and timely access to all lawful pregnancy-related medical services.*
- 10) *Inmate victims of sexual abuse while incarcerated shall be offered tests for sexually transmitted infections as medically appropriate.*

Interviews with the HSA and Mental Health Director support that inmates sent outside for medical treatment do receive medical care consistent with community level of care. They ensure that victims would be offered tests for STDs and medically appropriate pregnancy test and timely access to all lawful pregnancy-related medical services. All this would be at no cost to the inmate, even if they did not cooperate with the investigation. There has been no incident which would warrant follow up treatment in the previous twelve months. The auditor found no reason to dispute this during the audit process.

Finding of compliance is based on the following: Based on policy and the statements made by the HSA and Mental Health Director, the auditor finds sufficient evidence to support a finding of compliance with the requirements of this standard.

DATA COLLECTION AND REVIEW

Standard 115.86: Sexual abuse incident reviews

115.86 (a)

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

115.86 (b)

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

115.86 (c)

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

115.86 (d)

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

115.86 (e)

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

Auditor Overall Compliance Determination

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

The standard has the following requirements: (a) The facility shall conduct a sexual abuse incident review at the conclusion of every sexual abuse investigation, including where the allegation has not been substantiated, unless the allegation has been determined to be unfounded. (b) Such review shall ordinarily occur within 30 days of the conclusion of the investigation. (c) The review team shall include upper-level management officials, with input from line supervisors, investigators, and medical or mental health practitioners. (d) The review team shall: (1) Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse; (2) Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; or gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility; (3) Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse; (4) Assess the adequacy of staffing levels in that area during different shifts; (5) Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff; and (6) Prepare a report of its findings, including but not necessarily limited to determinations made pursuant to paragraphs (d)(1)-(d)(5) of this section, and any recommendations for improvement and submit such report to the facility head and PREA compliance manager. (e) The facility shall implement the recommendations for improvement, or shall document its reasons for not doing so.

BCSO-017R-A Prevention of Sexual Abuse and Sexual Harassment of Inmates states, *DATA COLLECTION AND ANALYSIS*

Sexual Abuse Incident Review

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

Prepare a report of its findings, including but not necessarily limited to determinations made pursuant to Section VII, #13a-13d of this section, and any recommendations for improvement and submit such report to the facility head and PREA compliance manager.

5) *The BCSO shall implement the recommendations for improvement, or shall document its reasons for not doing so.*

The facility conducts review by following the requirements of all aspects of the standard requirements. The auditor requested and received all incident reviews for the investigations from the previous twelve months which demonstrated compliance with the standard. The auditor interviewed many PREA Incident Review Team members: Superintendent, PREA Coordinator, Mental Health Director, Health Services Administrator, investigators. They all confirmed their commitment to this process.

Finding of compliance is based on the following: Interviews with the incident team members, review of the completed incident review reports which correlated to the investigations and the policy all provide sufficient evidence to support a finding of compliance with this standard.

Standard 115.87: Data collection

115.87 (a)

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

115.87 (b)

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

115.87 (c)

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

115.87 (d)

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

115.87 (e)

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

115.87 (f)

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

Auditor Overall Compliance Determination

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

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

BCSO-017R-A Prevention of Sexual Abuse and Sexual Harassment of Inmates states, *Data collection*

- 1) *The BCSO shall collect accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions.*
- 2) *The BCSO will aggregate the incident-based sexual abuse data at least annually.*
- 3) *The incident-based data collected shall include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence conducted by the Department of Justice.*
- 4) *The BCSO will maintain, review, and collect data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews.*
- 5) *The BCSO also shall obtain incident-based and aggregated data from every private facility with which it contracts for the confinement of its inmates.*
- 6) *Upon request, the BCSO shall provide all such data from the previous calendar year to the Department of Justice no later than June 30.*

The auditor found the Annual Report for 2018 on the facility webpage at <https://bcsoma.org/wp-content/uploads/2019/01/PREA-Annual-Report-for-Website-2018.pdf>

The Sheriff confirmed he approved it prior to publishing. The SSV requested by the DOJ was last requested in 2012; this was provided to the auditor. The Annual Report is a two page document located on the website, detailing statistics on sexual abuse and sexual harassment incidents for 2018. It is dated January 2019.

Finding of compliance is based on the following: As demonstrated by policy and the annual report the auditor finds the facility to be in compliance with this standard.

Standard 115.88: Data review for corrective action

115.88 (a)

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

115.88 (b)

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

115.88 (c)

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

115.88 (d)

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

Auditor Overall Compliance Determination

Exceeds Standard (*Substantially exceeds requirement of standards*)

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

The standard has the following requirements: (a) The agency shall review data collected and aggregated pursuant to § 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by: (1) Identifying problem areas; (2) Taking corrective action on an ongoing basis; and (3) Preparing an annual report of its findings and corrective actions for each facility, as well as the agency as a whole. (b) Such report shall include a comparison of the current year's data and corrective actions with those from prior years and shall provide an assessment of the agency's progress in addressing sexual abuse. (c) The agency's report shall be approved by the agency head and made readily available to the public through its website or, if it does not have one, through other means. (d) The agency may redact specific material from the reports when publication would present a clear and specific threat to the safety and security of a facility, but must indicate the nature of the material redacted.

BCSO-017R-A Prevention of Sexual Abuse and Sexual Harassment of Inmates states,

Data review for corrective action

- 1) *The BCSO shall review data collected and aggregated pursuant to § 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by:*
 - (a) *Identifying problem areas;*
 - (b) *Taking corrective action on an ongoing basis; and*
 - (c) *Preparing an annual report of its findings and corrective actions for each facility, as well as the agency as a whole.*
- 2) *Such report shall include a comparison of the current year's data and corrective actions with those from prior years and shall provide an assessment of the BCSO's progress in addressing sexual abuse.*
- 3) *The BCSO's report shall be approved by the Sheriff and made readily available to the public through its website.*
- 4) *The BCSO may redact specific material from the reports when publication would present a clear and specific threat to the safety and security of a facility, but must indicate the nature of the material redacted.*

The Annual Report was reviewed. It was updated at the auditor's request and now has a paragraph dedicated to comparing 2018 to 2017 data. No redactions were required. Per the interview with the PREA Coordinator and as noted on the report, it was confirmed that any information that would reveal an identity would be redacted.

Finding of compliance is based on the following: As stated, interviews with the Sheriff, PREA Coordinator, PREA Manager and review of the report found on the website noted all provide the auditor evidence to support a finding of compliance with this standard. Moreover, compliance with this standard is further supported by interviews with the investigators and incident review team members about the PREA investigation data base illustrated how the data is used to look for trends (e.g. same staff member, same inmate, same area, etc.) to help prevent future incidents.

Standard 115.89: Data storage, publication, and destruction

115.89 (a)

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

115.89 (b)

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

115.89 (c)

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

115.89 (d)

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

Auditor Overall Compliance Determination

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

The standard has the following requirements: (a) The agency shall ensure that data collected pursuant to § 115.87 are securely retained. (b) The agency shall make all aggregated sexual abuse data, from facilities under its direct control and private facilities with which it contracts, readily available to the public at least annually through its website or, if it does not have one, through other means. (c) Before making aggregated sexual abuse data publicly available, the agency shall remove all personal identifiers. (d) The agency shall maintain sexual abuse data collected pursuant to § 115.87 for at least 10 years after the date of the initial collection unless Federal, State, or local law requires otherwise.

BCSO-017R-A Prevention of Sexual Abuse and Sexual Harassment of Inmates states,

Data storage, publication, and destruction

- 1) *The BCSO shall ensure that data collected pursuant to § 115.87 are securely retained.*
- 2) *The BCSO shall make all aggregated sexual abuse data, from facilities under its direct control and private facilities with which it contracts, readily available to the public at least annually through its website.*

- 3) *Before making aggregated sexual abuse data publicly available, all personal identifiers will be removed.*
- 4) *The BCSO shall maintain sexual abuse data collected pursuant to § 115.87 for at least 10 years after the date of the initial collection unless Federal, State, or local law requires otherwise.*

The Auditor reviewed the State of Massachusetts retention schedule updated June 2018. It supports that Inmate Investigation Records are retained for 10 years. Interviews with the investigators and PREA Coordinator indicate that all data is securely retained and it retained forever at the moment.

Finding of compliance is based on the following: Policy and the Retention schedule confirm compliance with the standard in addition to the interviews with the investigators and PREA Coordinator.

AUDITING AND CORRECTIVE ACTION

Standard 115.401: Frequency and scope of audits

115.401 (a)

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

115.401 (b)

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

115.401 (h)

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

115.401 (i)

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

115.401 (m)

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

115.401 (n)

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

Auditor Overall Compliance Determination

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

See comments supporting compliance throughout the report.

Standard 115.403: Audit contents and findings

115.403 (f)

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

Auditor Overall Compliance Determination

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

The previous PREA Audit report from April 2016 is located on the agency website.

AUDITOR CERTIFICATION

I certify that:

- The contents of this report are accurate to the best of my knowledge.

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

Amy J. Fairbanks

September 4, 2019

Auditor Signature

Date