

# Prison Rape Elimination Act (PREA) Audit Report

## Adult Prisons & Jails

☐ Interim ☒ Final

Date of Report July 17, 2022

### 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: May 12-13, 2022

### Agency Information

Name of Agency:	Governing Authority or Parent Agency (If Applicable):		
Berkshire County Sheriff's Office	Berkshire County Sheriff's Office		
Physical Address: 467 Cheshire Rd.	City, State, Zip: Pittsfield, MA 01201		
Mailing Address: same as above	City, State, Zip:		
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 Website with PREA Information: <a href="https://bcsoma.org/prea-policy/">https://bcsoma.org/prea-policy/</a>			

### Agency Chief Executive Officer

Name: Thomas Bowler, Sheriff	
Email: Thomas.Bowler@sdb.state.ma.us	Telephone: (413) 443-7220 ext. 1102

### Agency-Wide PREA Coordinator

Name: Daniel J. Sheridan, Assistant Superintendent	
Email: Daniel.Sheridan@sdb.state.ma.us	Telephone: (413)443-7220 ext. 1402
PREA Coordinator Reports to: Brad Little, Superintendent	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 Rd.

**City, State, Zip:** Pittsfield, MA 01201

**Mailing Address (if different from above):**

**City, State, Zip:**

**The Facility Is:**

☐ Military

☐ Private for Profit

☐ Private not for Profit

☐ Municipal

☒ County

☐ State

☐ Federal

**Facility Type:**

☐ Prison

☒ Jail

**Facility Website with PREA Information:** <https://bcsoma.org/prea-policy/>

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

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

☒ ACA

☒ NCCHC

☐ CALEA

☐ Other (please name or describe: N/A)

**If the facility has completed any internal or external audits other than those that resulted in accreditation, please describe:**  
Massachusetts Department of Correction conducts audits of operations twice yearly in addition to Department of Public Health.

### Warden/Jail Administrator/Sheriff/Director

**Name:** Brad Little, Superintendent

**Email:** Brad.Little@sdb.state.ma.us

**Telephone:** (413) 443-7220 ext. 1107

### Facility PREA Compliance Manager

**Name:** NA

**Email:**

**Telephone:**

### Facility Health Service Administrator ☐ N/A

**Name:** Nancy Pieraccini

**Email:** Nancy.Pieraccini@sdb.state.ma.us

**Telephone:** (413) 443-7220 et. 1500

Facility Characteristics	
Designated Facility Capacity:	538
Current Population of Facility:	135
Average daily population for the past 12 months:	138
Has the facility been over capacity at any point in the past 12 months?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Which population(s) does the facility hold?	<input type="checkbox"/> Females <input checked="" type="checkbox"/> Males <input type="checkbox"/> Both Females and Males
Age range of population:	18 to 80
Average length of stay or time under supervision:	62 days
Facility security levels/inmate custody levels:	Minimum, medium, maximum
Number of inmates admitted to facility during the past 12 months:	570
Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 72 hours or more:	461
Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 30 days or more:	279
Does the facility hold youthful inmates?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/>
Number of youthful inmates held in the facility during the past 12 months: (N/A if the facility never holds youthful inmates)	<input checked="" type="checkbox"/> N/A
Does the audited facility hold inmates for one or more other agencies (e.g. a State correctional agency, U.S. Marshals Service, Bureau of Prisons, U.S. Immigration and Customs Enforcement)?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Number of staff currently employed by the facility who may have contact with inmates:	257

Number of staff hired by the facility during the past 12 months who may have contact with inmates:	44
Number of contracts in the past 12 months for services with contractors who may have contact with inmates:	11
Number of individual contractors who have contact with inmates, currently authorized to enter the facility:	290
Number of volunteers who have contact with inmates, currently authorized to enter the facility:	50
<b>Physical Plant</b>	
<b>Number of buildings:</b>  Auditors should count all buildings that are part of the facility, whether inmates are formally allowed to enter them or not. In situations where temporary structures have been erected (e.g., tents) the auditor should use their discretion to determine whether to include the structure in the overall count of buildings. As a general rule, if a temporary structure is regularly or routinely used to hold or house inmates, or if the temporary structure is used to house or support operational functions for more than a short period of time (e.g., an emergency situation), it should be included in the overall count of buildings.	5
<b>Number of inmate housing units:</b>  Enter 0 if the facility does not have discrete housing units. DOJ PREA Working Group FAQ on the definition of a housing unit: How is a "housing unit" defined for the purposes of the PREA Standards? The question has been raised in particular as it relates to facilities that have adjacent or interconnected units. The most common concept of a housing unit is architectural. The generally agreed-upon definition is a space that is enclosed by physical barriers accessed through one or more doors of various types, including commercial-grade swing doors, steel sliding doors, interlocking sally port doors, etc. In addition to the primary entrance and exit, additional doors are often included to meet life safety codes. The unit contains sleeping space, sanitary facilities (including toilets, lavatories, and showers), and a dayroom or leisure space in differing configurations. Many facilities are designed with modules or pods clustered around a control room. This multiple-pod design provides the facility with certain staff efficiencies and economies of scale. At the same time, the design affords the flexibility to separately house inmates of differing security levels, or who are grouped by some other operational or service scheme. Generally, the control room is enclosed by security glass, and in some cases, this allows inmates to see into neighboring pods. However, observation from one unit to another is usually limited by angled site lines. In some cases, the facility has prevented this entirely by installing one-way glass. Both the architectural design and functional use of these multiple pods indicate that they are managed as distinct housing units.	9  (Pods A, B, C, D, E, F, G, H & J)
Number of single cell housing units:	0
Number of multiple occupancy cell housing units:	7
Number of open bay/dorm housing units:	0
Number of segregation cells (for example, administrative, disciplinary, protective custody, etc.):	36
In housing units, does the facility maintain sight and sound separation between youthful inmates and adult inmates? (N/A if the facility never holds youthful inmates)	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
Does the facility have a video monitoring system, electronic surveillance system, or other monitoring technology (e.g. cameras, etc.)?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

Has the facility installed or updated a video monitoring system, electronic surveillance system, or other monitoring technology in the past 12 months?		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>Medical and Mental Health Services and Forensic Medical Exams</b>		
Are medical services provided on-site?		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Are mental health services provided on-site?		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Where are sexual assault forensic medical exams provided? Local Hospital		
<b>Investigations</b>		
<b>Criminal Investigations</b>		
Number of investigators employed by the agency and/or facility who are responsible for conducting CRIMINAL investigations into allegations of sexual abuse or sexual harassment:		0
When the facility received allegations of sexual abuse or sexual harassment (whether staff-on-inmate or inmate-on-inmate), CRIMINAL INVESTIGATIONS are conducted by: Select all that apply		<input type="checkbox"/> Facility investigators <input type="checkbox"/> Agency investigators <input checked="" type="checkbox"/> An external investigative entity
<input checked="" type="checkbox"/> Local police department <input type="checkbox"/> Local sheriff's department <input checked="" type="checkbox"/> State police <input type="checkbox"/> A U.S. Department of Justice component <input type="checkbox"/> Other (please name or describe:		
<b>Administrative Investigations</b>		
Number of investigators employed by the agency and/or facility who are responsible for conducting ADMINISTRATIVE investigations into allegations of sexual abuse or sexual harassment?		5
When the facility receives allegations of sexual abuse or sexual harassment (whether staff-on-inmate or inmate-on-inmate), ADMINISTRATIVE INVESTIGATIONS are conducted by: Select all that apply		<input checked="" type="checkbox"/> Facility investigators <input type="checkbox"/> Agency investigators <input type="checkbox"/> An external investigative entity
<input checked="" type="checkbox"/> Local police department <input type="checkbox"/> Local sheriff's department <input checked="" type="checkbox"/> State police <input type="checkbox"/> A U.S. Department of Justice component <input type="checkbox"/> Other (please name or describe:		

# Audit Findings

## Audit Narrative (including Audit Methodology)

On May 12-13, 2022, an audit was conducted at the Berkshire County Sheriff's Office, Jail and House of Correction to determine compliance with the Prison Rape Elimination Act standards finalized August 2012. The auditor was present at the facility from 8:00am to 6:30pm Thursday and 6:00am to 4:00pm Friday. There were no barriers to completing the audit. The auditor was selected to complete the audit by responding to an informal request, submitting a contract proposal, and being selected to complete the audit.

### **Audit Methodology:**

The PREA Resource Audit Instrument used for Adult Prisons and Jails is furnished by the National PREA Resource Center. This tool includes the following: A) Pre-Audit Questionnaire (PAQ), B) the Auditor Compliance Tool; C) Instructions for the PREA Audit Tour; D) the Interview Protocols; E) the Auditor's Summary Report; F) the Process Map; and G) the Checklist of Documentation. In addition, the Auditor Handbook 2021 was used to guide the audit process.

### **Pre-audit:**

The facility reported that posters announcing the audit with the auditor's name and address were placed throughout the facility announcing the audit and identifying the auditor's address in English and Spanish. The posters indicated that any correspondence sent to the auditor would be confidential and not disclosed unless required by law. The exceptions in the law were noted. The PREA Coordinator forwarded photos of the posted audit notices from each housing unit and various other areas within the jail (lobby, law library, classrooms, etc.) evidencing the fact that the notices were posted on April 4, 2022. No confidential correspondence letters were received in response to the posters announcing the audit. Notice of audit posters were viewed during the tour by the auditor in all areas of the facility where inmates can access as well as the front entrance lobby, visiting area and staff areas.

The PAQ and corresponding documentation was reviewed; additional clarification was requested of the facility and provided to the auditor. Documentation was provided in accordance with the PAQ.

The auditor researched the Internet and found neither evidence of Department of Justice involvement, nor any concerning information about this operation related to sexual abuse or sexual harassment. Contact was made with Just Detention International, a health and human rights organization that seeks to end sexual abuse in all forms of detention. They confirmed they had not received any concerns regarding this facility. Additionally, the auditor sent an email to Prison Legal Services (PLS). PLS is a not-for-profit legal services corporation, founded in 1972, that provides civil legal assistance to people who are incarcerated in Massachusetts state prisons and in the county jails and houses of correction. They engage in administrative advocacy, litigation, and public education on behalf of prisoners and their families. They keep tabs on the policies and practices affecting the over 25,000 individuals imprisoned in Massachusetts. No specific information regarding this facility was provided.

The auditor reviewed the mandatory reporting laws, laws regarding where and how juveniles are housed and laws regarding vulnerable adults for the Commonwealth of Massachusetts prior to the audit. The auditor spoke with a Regional SANE Coordinator for the state and communicated with staff from the victim advocate service – Elizabeth Freeman Center.

The auditor reviewed the agency website. It has the following information.

*PREA Policy*

*Prison Rape Elimination Act (PREA)*

*The Prison Rape Elimination Act, or PREA, is a federal law enacted in 2003. In accordance with PREA,*

*National Standards for Adult Prison and Jails have been issued for the prevention detection, reduction and elimination of sexual abuse and sexual harassment of inmates.*

*The Berkshire County Sheriff's Office (BCSO) fully supports PREA and the National Standards by enforcing a **Zero Tolerance Policy** concerning Sexual Abuse and Sexual Harassment in its facilities. The BCSO's Zero Tolerance Policy applies to every employee, contractor, volunteer, visitor, and every person under our correctional supervision.*

**Report any assault or harassment that is sexual in nature by:**

*Speaking in person or via telephone with Shift Commander (413) 443-7220 extension 1175 (ask for the Shift Commander);*

*Calling our PREA Coordinator Daniel Sheridan (413) 433-7220 extension 1402; or*

*Writing to Sheriff Bowler, 467 Cheshire Road, Pittsfield, MA 01201.*

*Any reports will be kept as confidential as the circumstance allows.*

*Pursuant to PREA National Standards Section 115.89 (b), the BCSO hereby provides the aggregated sexual abuse data relative to its facility. The links below will display the data for the previous calendar year:*

*[BCSO Zero Tolerance Policy and Procedure \(PDF\)](#)*

*[2019 PREA Audit Results \(PDF\)](#)*

*[2021 PREA Annual Report \(PDF\)](#)*

A tentative schedule was sent to the facility five days prior to the audit. In addition, the facility was provided specific requests for documentation of a random nature which assisted the auditor in determining compliance. These are noted in the narrative section for each standard/provision.

#### **On-site audit:**

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

#### **Facility Tour**

A complete tour of the facility was conducted on May 12 and 13, 2022. The following areas and operations were visited and observed: administrative areas, inmate living areas including specialized housing, medical operations, library/education areas, recreation areas (indoors and outdoors), programming areas, including hydroponics, food service area, visiting room, laundry and intake processing. All areas of the facility were visited that have inmate access. Camera monitoring operations were observed. Intake activities were observed. Orientation was observed. Supervision practices, blind spots, shower/bathroom facilities, and placement and number of telephones were observed. Cross-gender announcements were made prior to the opposite gender auditor entering the living units. Posters announcing the audit were observed throughout the facility. Access to grievances was observed. Observation of record storage for investigations and corresponding evidence and risk assessment documents occurred. The inmate telephone was used to access the phone number of the agency who accepts outside reports and the agency who provides emotional support services.

#### **Staff Interviews**

In accordance with the requirements of the Auditor Handbook, formal staff interviews were conducted with the following:

- Sheriff
- Superintendent/ADA Coordinator and Investigator
- PREA Coordinator/investigator/sexual incident review team
- Medical, Health Service Administrator and Mental Health Director
- Assistant Superintendent of Administrative Services (monitors for retaliation – staff, conducts

- background checks)
- Seven Supervisors – three Captains, two Lieutenants, two sergeants (conducts unannounced rounds)
- Two Primary Captains/Unit Managers who conduct unannounced rounds and monitor for retaliation against inmates who report PREA incidents or cooperate in a PREA investigation
- Twelve corrections officers/sergeants from all areas of the facility and each shift, six hired in the past twelve months
- One investigator (incident review team, conducts retaliation monitoring)
- One intake staff (who completes the initial intake risk screening)
- Program staff
- One officer and one supervisor who regular work the special housing unit
- Union representative
- Disciplinary Coordinator
- Three staff who make housing assignment decisions/monitor for retaliation/grievances
- Training Coordinator
- Volunteer Coordinator

Staff interviews were conducted in private areas throughout the facility. After review of documentation and informal questions throughout the on-site audit, it was concluded that no staff had conducted a cross-gender strip search, and no staff has acted as a first responder. Additionally, informal interviews were conducted with one lieutenant, five sergeants, five officers, and two nurses during the onsite audit.

#### Inmate Interviews

Count on the first day of the audit was 154, 95 pretrial inmates, 60 sentenced inmates. A review of inmate records was conducted with the assistance of the PREA Coordinator to identify inmates as required by the Auditor Handbook. A total of twenty (20) inmates were selected to be interviewed. At least one inmate was from each housing unit. No one declined to be interviewed. No youthful offenders are housed at this facility, per statute. No inmate was identified as having been placed in segregation for high risk of sexual victimization. No inmate was identified as having initiated a sexual abuse allegation. No inmate self-identified as transgender/intersex was housed at the facility during the onsite audit. Additionally, the auditor requested to interview the oldest inmate, youngest inmate, inmate housed at this facility the longest, and the inmate newest to arrive to the facility. Inmate interviews were additionally selected to attempt to reflect the racial/ethnic makeup of the facility. Targeted inmate interviews represented the following:

- Two inmates with limited English
- Two identified as gay/bi-sexual
- Four inmates who self-reported as having prior victimization
- Two inmates who had a physical disability
- Three inmates hard of hearing
- Three inmates cognitively challenged

Inmate interviews were held in the private areas throughout the facility.

#### PREA Investigations

When reviewing investigations, the auditor reviews the following: date of report, date of incident, date of completion, how reported, type of report, was notification immediate, was staff reassigned, was evidence gathered and preserved, need for forensic examination, credibility assessed individually, assessment of staff actions/failures, criminally referred, retention, maintained in secure area, investigation continued when abuser or victim left the facility, findings, referred for prosecution and/or licensing board, notification to abuser, retaliation monitoring completed and PREA incident review. Investigations can be conducted by four trained investigators at the facility. A list of investigations for the previous twelve months was provided. Twelve investigations were reviewed.

- Zero inmate-on-inmate sexual abuse

- Five inmate-on-inmate sexual harassment
- Seven staff-on-inmate sexual harassment
- Zero staff-on-inmate sexual abuse
- Zero retaliation allegations

No investigation was concluded to be substantiated, three were deemed unsubstantiated, three unfounded, six concluded to not meet the definition of sexual abuse, sexual harassment in accordance with the definitions set forth in the standards. Investigations were initiated based on numerous avenues: grievances, third party, verbal reports to staff and written reports. Investigations were thorough as evidenced by the practice to investigate anything related to possible sexual abuse or sexual harassment until the investigation concludes by the evidence that it was not PREA incident, according to the established definitions in the law.

#### Onsite Documentation review

Additional On-site documentation review included personnel files, training documents, inmate records and other documents which are noted in the narrative section of the standard/provision.

#### Exit meeting

An Exit meeting was held with the PREA compliance team to review audit experiences, observations and preliminary findings. The auditor reported that she was allowed free access to all areas of the facility, access to interview inmates and staff selected randomly and intentionally, and to see or retain any documentation requested. It was noted that a report should be expected within forty-five (45) days.

Post Audit: The auditor requested that policy be revised to include information regarding showers for transgender/intersex inmates. This was completed, an updated policy was sent in addition to evidence of enhancements to the showers.

## **Facility Characteristics**

The Berkshire County Jail and House of Corrections is located in Pittsfield, Massachusetts. This facility houses both sentenced and pretrial male inmates who are under the jurisdiction of the Berkshire County Sheriff's Office in addition to functioning as the Regional Lock Up facility for municipalities within the county which do not have their own lockup. 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. 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 155; ninety-five (95) pretrial inmates, sixty (60) sentenced inmates. . There are nine housing pods ( three were 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, multi-purposes rooms, library and chapel. Programming opportunities include the following: religious programming, educational programming, Alcoholics Anonymous (AA) and Narcotics Anonymous (NA), medication assisted treatment (MAT) program, communication skills, re-entry programming and working on the facility garden. All staff is BCSD employees with the exception of per diem nurses and dental staff .

## Summary of Audit Findings

### Standards Exceeded

Number of Standards Exceeded: 0

List of Standards Exceeded:

### Standards Met

Number of Standards Met: 45

### Standards Not Met

Number of Standards Not Met: 0

List of Standards Not Met:

## 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 auditor reviewed, gathered, analyzed and/or retained the following evidence related to this standard:

- BCSO 914.01A Prevention of Sexual Abuse and Sexual Harassment of Inmates
- Organization Chart
- Interview with the PREA Coordinator
- Interview with the Sheriff

- Interview with the Superintendent
- Appointment of PREA Coordinator by the Sheriff
- Observations during the audit
- PAQ

The following policy excerpts demonstrate the facility's commitment to the requirements of zero tolerance for sexual abuse and harassment as well as an outline for preventing, detecting, and responding to allegations of sexual harassment and abuse.

BCSO 914.01A Prevention of Sexual Abuse and Sexual Harassment of Inmates, *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.*

(a) Policy, as illustrated above, outlines the commitment to, goals for achievement and efforts to prevent, detect and respond to sexual abuse and sexual harassment. The complete policy is seventeen pages and demonstrates in detail how the agency will comply with all the PREA standards. Definitions of prohibited behaviors are addressed in this policy (and noted in the narrative to standard 115.87).

(b) The organization chart demonstrates that the Assistant Superintendent/PREA Coordinator reports directly to the Superintendent. During his interview, he is additionally responsible for supervising medical and mental health operations, collective bargaining, training, labor relations, staff discipline, litigation and inmate grievances. During his interview, he indicated he has been actively involved in the efforts to prevent, detect and respond to sexual abuse and sexual harassment since this has been implemented at this facility, serving as the PREA Coordinator since 2014. He affirmed that he has the time and authority to ensure such efforts are met. The interview with the PREA Coordinator and Superintendent confirmed to the auditor that he is given authority to work directly with the Superintendent, on any PREA issues that arise in his role as the PREA Coordinator. This was evident to the auditor during the onsite audit.

(c) There is only one operation, this agency does not have an assigned PREA Compliance Manager.

Summary of evidence to support a finding of compliance:

Policy reinforces the requirements of the provisions of this standard. Interviews with the Sheriff and Superintendent provided assurance to the auditor that the law and the requirements to prevent, detect and respond to sexual abuse, sexual harassment and retaliation are an integral part of the operations at this facility. Interview with the PREA Coordinator demonstrated a commitment to compliance with all PREA standards; observations and interaction with staff demonstrated that he is involved in all processes to ensure the requirements are met and are effective. In accordance with the FAQ clarification, issued by the DOJ, the PREA Coordinator does have access to the Sheriff/Superintendent, and Assistant Deputy Superintendents which demonstrated to the auditor his influence in managing PREA related duties as well as access to all areas of the facility. He maintains a team that includes a sergeant that is actively involved in conducting investigations and another sergeant responsible for compliance at this facility. Additionally, the facility maintains PREA files with relevant documents, the standard language, any relevant Frequently Asked Questions (FAQs), Standards in Focus, and information from the Federal Registry to ensure a proper understanding of the requirements. The auditor finds sufficient evidence to support a finding of compliance.

## **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.) ☐ Yes ☐ No ☒ NA

### **Auditor Overall Compliance Determination**

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

The auditor reviewed, gathered, analyzed and/or retained the following evidence related to this standard:

- PAQ

Summary of evidence to support a finding of compliance:

The PAQ indicated that there is no contract for the confinement of inmates since the last PREA audit. The auditor found no reason to dispute that they contract for the confinement of inmates during the

audit process. Therefore, this standard is not applicable – compliant.

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

### **115.13 (a)**

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

- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: Generally accepted detention and correctional practices? ☒ Yes ☐ No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: Any judicial findings of inadequacy? ☒ Yes ☐ No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: Any findings of inadequacy from Federal investigative agencies? ☒ Yes ☐ No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: Any findings of inadequacy from internal or external oversight bodies? ☒ Yes ☐ No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: All components of the facility's physical plant (including "blind-spots" or areas where staff or inmates may be isolated)? ☒ Yes ☐ No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: The composition of the inmate population? ☒ Yes ☐ No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: The number and placement of supervisory staff? ☒ Yes ☐ No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: The institution programs occurring on a particular shift? ☐ Yes ☒ No ☐ NA
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: Any applicable State or local laws, regulations, or standards? ☒ Yes ☐ No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: The prevalence of substantiated and unsubstantiated incidents of sexual abuse? ☒ Yes ☐ No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: Any other relevant factors? ☒ 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 auditor reviewed, gathered, analyzed and/or retained the following evidence related to this standard:

- BCSO 914.05 Minimum Staffing Requirements
- BCSO 924.16 Reporting and Inspections
- Internal PREA Vulnerability Assessment 2020, 2021 & 2022
- Interview with the Superintendent
- Interview with the PREA Coordinator
- Randomly requested Staffing Rosters

- Interviews with Supervisors formal and informal - (Captain and Lieutenant)
- Observation of unannounced rounds/ video evidence
- Random staff interviews
- Supervisor interviews
- Staffing Plan
- PAQ
- Electronic log entry, supervisory rounds April 1, 2021 to April 1, 2022 27 pages, all three shifts

The PAQ indicates that the average daily population since the last PREA audit is 157. However, the staffing plan is predicated on an inmate population of 500.

BCSO 914.05 Minimum Staffing Requirements requires the Sheriff and facility administrator to determine workload requirements for all personnel and review them on an ongoing basis to ensure staffing, support services and adequate supervision of inmates, staff and the facility. It requires an annual review. It allows the ability to hire provisional appointments if deemed necessary. It specifically states, *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.*
- (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.*

(a) The interview with the Superintendent and review of the staffing plan confirmed the following:

- (1) The facility has been maintaining accreditation status through the American Correctional Association (ACA) and currently, National Commission on Correctional Health (NCCHC). Training provided to staff is from the National Institute of Corrections (LGBTI)
  - (2) There are no judicial findings of inadequacy;
  - (3) There are no findings of inadequacy from Federal investigative agencies;
  - (4) There are no findings of inadequacy from internal or external oversight bodies; The auditor was informed that the Massachusetts Department of Correction conducts audits twice yearly to analyze and assess operations. The Superintendent confirmed that no deficiencies have been noted requiring a change in operations.
  - (5) All components of the facility's physical plant are reviewed. Video monitoring is used; specific information regarding placement of cameras was reviewed during the audit.
  - (6) The composition of the inmate population has been the same for several years.
  - (7) The number and placement of supervisory staff has been reviewed and determined to be adequate. Review of rounds and staffing occur regularly.
  - (8) Institution programs occurring on a particular shift has a detailed evaluation of the time and days of the programs occurring. This was reinforced by the conversation with programming staff.
  - (9) Any applicable State or local laws, regulations, or standards are reviewed. Staff discussed with the auditor that changes that were implemented with the 2018 Criminal Justice Reform Act that affected restrictive housing, medication administration for substance abusers, treatment/ searches of transgenders and other areas.
  - (10) The prevalence of substantiated and unsubstantiated incidents of sexual abuse are addressed. This is additionally analyzed in the Annual Report.
  - (11) No other relevant factors have been identified.
- (b) It was reported and confirmed through review of randomly requested staffing rosters that overtime is used to ensure that all positions are filled. Random staff interviews confirmed that they work overtime and are from time to time mandated to work overtime to ensure staff positions are filled.

During the audit, the auditor observed that the facility has no obvious blind spots, staff were assigned to posts, staff stations provide direct supervision of the housing unit, camera coverage is excellent. The physical plant has remained the same. Cameras were added to aid in overseeing the medication assisted treatment (MAT) program. Review of the staffing plan confirmed that video monitoring, number and placement of supervisors, prevalence of substantiated and unsubstantiated incidents of sexual abuse and resources reviewed annually.

The facility indicated on the PAQ that there have been no instances of non-compliance as overtime is utilized to ensure all positions are filled. As indicated, to further review compliance, the auditor randomly requested and received staffing rosters for all three shifts for the 6<sup>th</sup> of each month for the previous four months. Review of the rosters confirmed that use of overtime to fill positions was documented. There was no assignment closed that had direct inmate supervision.

(c) Policy, interviews with the Superintendent and the PREA Coordinator confirmed this staffing review is conducted. Review of the staffing plan confirmed that video monitoring, number and placement of supervisors, prevalence of substantiated and unsubstantiated incidents of sexual abuse, and resources are reviewed annually. No changes were implemented, the auditor supports that the analysis was credible to conclude this.

(d) BCSO 924.16 Reporting and Inspections states Supervisory Staff conduct daily inspections of areas under their control at least once a shift. It additionally indicates that any staff who announces or otherwise signals or alerts staff to rounds being conducted by a supervisor shall be subject to disciplinary action.

Electronic logbooks entries were provided with the pre-audit documentation. The provided evidence of unannounced supervisory rounds for one year, all three shifts. The auditor asked staff during random interviews if the supervisor comes through the unit regularly, if the time was the same everyday and if anyone is alerting them to the rounds being conducted by the supervisor. All interviews confirmed that they do not know when the supervisor is coming to their assigned post for the check, and they are not being alerted to the supervisor making rounds. Additionally, they confirmed knowledge that they are not to alert others when the supervisor is making rounds. Formal and informal interviews with supervisor staff confirmed to the auditor that they conduct rounds at different times, different directions and do not believe that staff have been alerted to their rounds.

Summary of evidence to support a finding of compliance:

Review of the policies, staffing plan, and random selection of rosters which support compliance. Interviews with staff such as corrections officers, supervisors, Superintendent and PREA Coordinator all supported a finding of compliance. Overall observations during the audit process did not lead to any evidence that would indicate non-compliance.

## **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 auditor reviewed, gathered, analyzed and/or retained the following evidence related to this standard:

- Inmate roster showing no inmate under the age of 18 yrs. old
- MGL Chapter 119, Section 58

(a)(b)(c)

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 Law. During the audit, the auditor neither saw nor heard anything to dispute that no youths are housed at this facility.

Summary of evidence to support a finding of compliance:

The law prevents the facility from housing inmates under the age of 18 yrs. old. The auditor requested to speak with the youngest inmate, he was 18 yrs. old. He confirmed to the auditor that he was transferred to this jail on his 18<sup>th</sup> birthday. Observations and policy confirm this to be true and therefore it is deemed not applicable – compliant.

## 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, except in exigent circumstances? (N/A if the facility does not have female inmates.)  
☒ 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 if the facility does not have female inmates.) ☒ 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? (N/A if the facility does not have female inmates.) ☒ Yes ☐ No ☐ NA

#### 115.15 (d)

- Does the facility have policies 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 have procedures 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 auditor reviewed, gathered, analyzed and/or retained the following evidence related to this standard:

- BCSO 924.06 Searches
- BCSO 924.16 Reporting and Inspections
- BCSO 974.08 Personal Hygiene
- PREA Training Curriculum - Searches
- Post orders, property room officer
- Electronic logbook entries noting "PREA Announcement"
- Interviews with random staff
- Interviews with random inmates
- Interviews with supervisory staff
- Interviews with female security staff
- Observations of living areas
- Review of video monitoring
- Gender Identity form
- Observation of an inmate intake
- PAQ
- Frequently Asked Questions - Clarification of Application to PREA Standards Provisions (FAQ)

The PAQ indicates that there has been no cross-gender strip or cross-gender visual body cavity searches of inmates, no cross-gender strip or cross-gender visual body cavity searches of inmates that did not involve exigent circumstances or were performed by non-medical staff. In accordance with the 2018 Criminal Justice Reform Act, a transgender/intersex inmate can request a search by an officer of the same gender identity as the inmate. MGL c. 127, s. 32A.

The following policy excerpts support compliance with the provisions of this standard:

BCSO 924.06 Searches. It states,

*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 he/she prefers to be searched by. That preference shall be documented and complied with except in exigent circumstances.*

It provides techniques for how to search male and female inmates. It confirms that searches will not be performed to determine the gender of the inmate; that will be conducted privately by nurse or other medical personnel.

*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.*

*Strip searches of inmates shall be conducted in relative privacy with as much dignity as possible by security personnel and conducted by staff of the same sex as the inmate. Inmates who have identified themselves as transgender or intersex shall be asked which gender officer he/she prefers to be searched by.*

*Manual cavity search shall be done by a qualified health care personnel and shall be conducted in private.*

BCSO 924.16 Reporting and Inspections,

*The Pod officer shall make an announcement over the intercom whenever a staff member, contractor or volunteer of the opposite gender from the inmates enters the pod. The officer shall promptly document the announcement in the security log.*

(a) Policy supports that the facility will 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) (c) This facility may house females temporarily as a lock-up function until they are transferred to a female facility. The facility indicated during the onsite inspection that they would use the following resources to ensure the search is conducted by female staff: use females on shift, use police female staff, use metal detector (wand) search. Females can be held in the detention area while awaiting court, with a remote occurrence of being held overnight.

(d) BCSO 974.08 Personal Hygiene 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.

The auditor was provided documentation that reflected that opposite gender announcement is documented in the electronic logbook as the "Gender Announcement". All random staff interviews and random inmate interviews confirmed that this announcement is made every time a female staff enters the unit and, that inmates are able to shower, use the toilet and change clothes without being seen in using the toilet, showering or changing clothes.

During the tour, the auditor observed the showers located in the individual housing units. The showers have doors to provide privacy but maintain the ability to view sufficiently to ensure safety. Additionally, during the tour the auditor observed the area where strip searches are conducted in Intake. It provided appropriate privacy for the inmate during this process. During the tour, the auditor and escort team was announced prior to entering the unit; this did not appear to be odd based on the observations of the inmates in the unit at the time. The view of the video monitoring supports that opposite gender staff cannot view buttocks, or genitalia, of inmates while in their cell or using the shower. The auditor viewed the showers from the top level to ensure it does not afford an officer view of the buttocks, or genitalia (or breasts if there were a transgender female housed in the living areas). The auditor reviewed the strip search area in the intake operation. It is an individual room, with an area to the side for changing. It does have a window/access to the area where property is provided. The area to the side affords them to change without being seen directly by the property room officer. Additionally, the Post order for the Property Room officers indicates the following: If a strip search is being conducted of someone of that identifies as the opposite gender, the property officer will exit the property room.

(e) BCSO-067R Searches *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 he/she prefers to be searched by. That preference shall be documented and complied with except in exigent circumstances.*

In accordance with the FAQ, as the asking inmates/residents/detainees to identify the gender of staff with whom they would feel most comfortable conducting the search, is one of the options provided to represent compliance, this facility is compliant with this clarification.

As stated in the policies below and as mandated by the Criminal Justice Reform Act of 2018, MGL c. 127, s. 32, transgender or intersex offenders are not searched or physically examined to determine genital status.

All staff interviews supported that they were knowledgeable regarding this requirement of the standard and this has not occurred at this facility. The interview with the transgender inmate supported compliance with this provision.

Review of the policy which is addressed in training and the training curriculum supports that staff are trained on how to conduct cross-gender pat-down searches, and transgender/intersex searches in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs. It confirms that a transgender/intersex inmate will designate the gender of their identity when being searched. This question is addressed at intake before the inmate is asked to go through the body scanner so that the appropriate gender can be viewing the screen. A copy of the Gender Identity form was provided to the auditor, and additionally observed being addressed while observing the inmate intake process during the onsite audit.

Training records provided demonstrate that staff have reviewed the policy in April 2022, the policy was revised that month. It provides specific instructions on how to search a male inmate and a female inmate. All staff interviews support they have been trained and articulated to the auditor, knowledge and compliance of the techniques illustrated.

Finding of compliance is based on the following: Policies which support compliance, staff interviews demonstrated knowledge of these requirements from training received, the training curriculum, training records, and overall observations made during the audit process. In accordance with FAQ clarifications, policy was updated to allow a transgender/intersex incarcerated individual to designate the gender of the staff to pat search in accordance with the inmates preferred gender. Interviews all confirmed that they have been appropriately trained regarding how to search transgender/intersex persons and cross-gender pat searches. The auditor is finding this facility is compliant with this standard.

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

### **115.16 (a)**

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

and respond to sexual abuse and sexual harassment, including: inmates who are blind or have low vision? ☒ Yes ☐ No

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

#### **115.16 (b)**

- Does the agency take reasonable steps to ensure meaningful access to all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment to inmates who are limited English proficient? ☒ Yes ☐ No

- Do these steps include providing interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary?  
☒ Yes ☐ No

#### 115.16 (c)

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

#### Auditor Overall Compliance Determination

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

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

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

The auditor reviewed, gathered, analyzed and/or retained the following evidence related to this standard:

- BCSO 934.03 Reasonable Accommodations of Special Needs
- Observations during the tour, PREA information in English and Spanish
- Interview with the Sheriff
- Interviews Inmates LEP or disabled
- List of bilingual staff (French, African- GA & Twi, Spanish, ASL, Mandarin, Korean, Urdu, Punjabi, Arabic, Creole, Italian) April 2022
- Random staff interviews
- PAQ
- Language Access Line Contract Use of the Language Line
- Interview with the Disability Coordinator (Superintendent)
- Inmate Handbook – English and Spanish
- Orientation video – closed caption English and Spanish
- Interview staff who conduct orientation
- Review of PREA training curriculum

BCSO 934.03 Reasonable Accommodations of Special Needs states: *The Sheriff's Office 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. 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 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) The Superintendent is also the designated ADA Coordinator. He indicated that he held this position before his appointment to Superintendent and choose to keep the responsibilities.

He indicates that he ensures that all specific needs of inmates which are identified in the intake process or subsequently thereafter are addressed. Interviews with inmates with permanent or temporary disabilities confirmed to the auditor that their needs are addressed, and they do not believe they are denied any benefits derived from the procedures/processes in place to ensure they are safe. Review of the training curriculum for PREA addresses with staff the need to ensure inmates with disabilities have an understanding of their rights, providing specific examples of individual needs.

(b) The agency has a contract with Language Line Services, Inc. Documentation demonstrating its use was provided to the auditor. During random staff interviews, many staff, including the intake sergeant, are aware of the availability of the line if its use is needed. The Inmate Handbook is available in Spanish. Many staff are bi-lingual and indicate they have been called upon to assist when translation is needed. The auditor interviewed staff who conduct orientation and the video. They confirmed that the video is available in closed-caption and Spanish closed caption. The auditor is familiar with this video and is aware of these capabilities.

(c) The PAQ reports that there have been no instances where an inmate was used to interpret during a PREA investigation in the previous 12 months. The auditor found no reason to dispute this fact during the audit process. All staff interviews confirmed that another inmate would not be used to interpret for an inmate making a PREA allegation or any part of the PREA requirements (intake, investigation, etc).

Review of the policies and other documents noted above support that the facility Does address all language, cognitive and physical needs of the inmate population to ensure they are able to ensure they have *meaningful access to all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment*. The documentation for the intake process indicates that language needs are assessed immediately upon arrival, as are any disability needs. The interview with the Sheriff reiterated his support for all these processes in place. The language line is readily available for needs that arise. For these reasons the auditor finds that the facility is in substantial compliance with this standard.

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

#### 115.17 (c)

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

#### 115.17 (d)

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

#### 115.17 (e)

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

#### 115.17 (f)

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

#### 115.17 (g)

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

#### 115.17 (h)

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

#### Auditor Overall Compliance Determination

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

The auditor reviewed, gathered, analyzed and/or retained the following evidence related to this standard:

- BCSO 914.02 Selection & Hiring
- Observations
- Interviews Assistant Deputy Superintendent of Administrative Services
- Employment Application
- Documents - Personnel files of those hired or promoted in the past 12 months
- Documentation randomly requested staff confirmation of background checks
- Interviews with random staff
- PAQ

The PAQ indicates that forty-four staff have been hired who may have contact with inmates in the previous twelve months, no contractual staff. For clarification, the BCSO does hire staff who are funded

through grants. After review of the definition, it was determined that these are not contractual staff and they are treated like employees of the BCSO.

BCSO 914.02 Selection and Hiring states, *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 (a)(2) of this section.*

*Berkshire County Sheriff's Office 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.*

*Berkshire County Sheriff's Office will 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.*

*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 record 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.*

*Personnel background investigations shall be conducted, at a minimum, via CJIS, NCIC, Board of Probation, previous employers and references. In accordance with National PREA Standards, 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.*

*In accordance with National PREA Standards, the Berkshire County Sheriff's Office shall also perform criminal background records checks before enlisting the services of any contractor who may have contact with inmates.*

*In accordance with National PREA Standard, criminal background records checks shall be conducted at least every five years of current employees and contractors who may have contact with inmates.*

*In accordance with National PREA Standard, upon submission of a valid authorization for release signed by the former employee, the Berkshire County Sheriff's Office will provide 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 auditor reviewed the application process. All language from this standard is included in the application booklet. The application process specifically asks all applicants to answer the questions in provision (a) *(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.*

In addition to the following:

Have you even been engaged in or been accused of engaging in sexual harassment in any prior employment? and Have you resigned from, been terminated from, quit or otherwise separated from any job following allegations that you engaged in sexual harassment or any other form of sexual misconduct? The Application also has the following in capital letters and bold: False or inaccurate information or the omission of information on this application will be cause for disqualification for employment or dismissal at any time after employment has commenced.

The application additionally has the following:

I understand that I have a continuing affirmative duty to immediately report in writing to the Sheriff any such misconduct during the time I am employed by/contract with or volunteer for the Berkshire County Sheriff's Office.

Interview with the Assistant Deputy Superintendent of Administrative Services indicates that they had not had a candidate with a history of sexual harassment which required consideration. She indicated, their office has not had to provide information to another agency about a prior employee. Upon receipt of a release of records, this information would be provided.

The auditor requested and reviewed six examples of newly hired staff personnel records. They reflected the complete Application as described above. The auditor requested and reviewed personnel files for the last two promotional candidates. They confirmed that a current criminal background check was completed, and the questions required from provision (a) were asked. The auditor requested background checks for the first three employees with the last name beginning with D, M, T. This yielded nine records which reflected criminal background investigations within five years.

The interview with the Assistant Deputy Superintendent of Administrative Services confirmed there is a system that monitors which staff are due for a criminal record background check, a list is generated and provided to the investigator for completion.

As stated, this is included in the application process on the applicant forms. It was confirmed to the auditor that promotional candidates complete a new application; therefore, addressing these questions again.

Additionally, the auditor learned of a newly hired staff during random interviews that had previous correctional experience. The auditor was provided the personnel file to review to discover that the application was completed, and the prior institutional employee was contacted. Informally, the auditor asked staff about their knowledge of the requirement to immediately report any criminal activity and they all confirmed yes.

While the standard requires criminal background checks on staff every five years, the facility exceeds the standard by conducting annual criminal background checks.

Finding of compliance is based on the following: Policy, and the application process address all requirements of the standard. Interviews with the Assistant Deputy Superintendent for Administrative Services, informal interviews with random staff and review of documentation from personnel files provided 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 auditor reviewed, gathered, analyzed and/or retained the following evidence related to this standard:

- Observations of camera monitoring
- Interviews Sheriff
- Interview Superintendent
- Vulnerability Assessments
- PAQ

The PAQ indicates the facility has not acquired any new facilities or made any substantial expansions or modifications of existing facilities since the last PREA audit but has installed or updated a video monitoring system, electronic surveillance system, or other monitoring technology since the last PREA audit. The auditor was provided information on where newly added cameras were placed. The facility's annual Vulnerability Assessment addresses areas where they believe video monitoring would enhance inmate safety. The interview with the Superintendent and the Sheriff confirmed to the auditor that video monitoring is regularly viewed, and upgrades are assessed based on the agency's ability to protect inmates from sexual abuse and overall safety. The auditor therefore finds there is sufficient evidence to support a finding of compliance.

## RESPONSIVE PLANNING

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

#### 115.21 (a)

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

#### 115.21 (b)

- Is this protocol developmentally appropriate for youth where applicable? (N/A if the agency/facility is not responsible for conducting any form of criminal OR administrative sexual abuse investigations.) ☒ Yes   ☐ No   ☐ NA
- 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? (N/A if the agency *always* makes a victim advocate from a rape crisis center available to victims.) ☐ Yes ☐ No ☒ NA
- 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 agency 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 *always* makes a victim advocate from a rape crisis center available to victims.) ☐ Yes ☐ No ☒ NA

#### Auditor Overall Compliance Determination

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

The auditor reviewed, gathered, analyzed and/or retained the following evidence related to this standard:

- BCSO 914.01A Prevention of Sexual Abuse and Sexual Harassment of Inmates
- PAQ
- Interview with the Investigators

- Investigator Training curriculum
- Interview with Regional SANE Coordinator for Commonwealth of Massachusetts
- PREA Kit
- MOU with Berkshire County Prosecuting Attorney
- MOU with Massachusetts State Police
- MSP General Order INV-10 – Evidence Collection and Preservation
- MOU with Elizabeth Freeman Center
- Massachusetts State Police website
- Berkshire County Sexual Assault Plan
- Interview with Elizabeth Freeman Center
- Mental health staff qualifications

The PAQ indicates there have been no forensic medical exams, no SANE/SAFE exams nor exams performed by a qualified medical practitioner during the previous twelve months.

BCSO 914.01A 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.*

*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.*

*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.*

*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. § 115.21(c)*

The Berkshire County Sexual Assault Response Plan is a document, ten pages (plus forms), detailing all requirements needed in the event of an allegation of sexual abuse. It is maintained in the Shift Commanders office and in the Control Center.

(a)(b) (f) To assist with ensuring that a uniform evidence protocol is used, the facility maintains a PREA Response Kit and checklist of contents. Investigators were trained in conjunction with the Massachusetts Department of Corrections Sexual Assault Investigation Training. Evidence Protocol and Forensic Medical Examinations are based on the Sexual Assault Investigator Certification Curriculum, Municipal Police Training Committee. The MOU with Berkshire County DA confirms that Massachusetts State Police investigators will be available to conduct potentially criminal investigations involving sexual abuse. The MOU indicates that they will follow a uniform evidence protocol that maximized the potential for obtaining usable physical evidence. 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. The Sexual Assault Response Plan provides direction on when and how to contact the District Attorney's office. The Response plan indicates the State Police if available will conduct the evidence collection. If not, the BCSO trained Investigative staff shall conduct/oversee the evidence collection/preservation, to include the use of the PREA kit.

The Massachusetts State Police addresses evidence and processes it at the State Police Crime Lab. The MOU with the MSP provides in relevant part:

#### **PREA COMPLIANCE**

The Massachusetts State Police Department hereby acknowledges that the Berkshire County Sheriff's Office is hereby compliant with the provisions set forth in the Prison Rape Elimination Act of 2003 (PREA), 42. U.S.C. 15601 et seq., and with all applicable PREA standards, all BCSO policies related to PREA for preventing, detecting, monitoring, investigating and eradicating any form of sexual abuse within the Berkshire County Jail and House of Correction.

The BCSO hereby acknowledges that the Department may investigate allegations of sexual abuse involving persons in custody at the Berkshire County Jail and House of Correction and that in doing so the Department shall comply with the Prison Rape Elimination Act of 2003 (PREA), 42. U.S.C. 15601 et seq., and with all applicable PREA standards, all BCSO policies related to PREA for preventing, detecting, monitoring, investigating and eradicating any form of sexual abuse within the Berkshire County Jail and House of Correction. In accordance with PREA National Standard for Adult Prisons and Jails, 28 CFR 115.21, the Department shall follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions. The protocol 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. The Department shall also comply with all other provisions of PREA Standard 115.21, 115.22, 115.34, 115.71 and all other applicable PREA standards.

The BCSO will normally conduct any administrative investigations and the Department may conduct any criminal investigation arising out of sexual abuse of an inmate in the custody of the BCSO. The parties shall work cooperatively on their respective investigations.

The parties recognize that should either party fail to comply with PREA standards, the other party may terminate this Agreement.

MSP General Order INV-10 dictates the measures MSP will undertake to ensure forensic evidence is properly collected and preserved.

The auditor found on the website the following: *Furthermore, the Massachusetts State Police website states, The Massachusetts State Police (MSP) has a zero-tolerance policy toward sexual abuse and sexual harassment of any kind towards any detainee while in State Police custody. All detainees have equal rights to safety, dignity, and justice and have the right to be free from sexual abuse and sexual harassment. Lock up facilities under their supervision have been certified compliant with PREA which further reinforces compliance with the standard.*

(c) (d) (e) The Sexual Assault Response Plan indicates that the Shift Commander, after completion of medical and mental health referrals and contact with the administration, shall determine whether a referral to a Berkshire Medical Center for SANE program services and/or other treatment is warranted. If deemed necessary, the inmate will be transported to the emergency room where they shall receive medical intervention to a forensic exam which will be offered to the alleged victim at no cost. The contact information for this is included in the Response Plan.

The Sexual Assault Response Plan includes that if requested by the alleged victim, the Elizabeth Freeman Center will be contacted (phone number provided). The facility has entered into a Memorandum of Understandings (MOU) with the Elizabeth Freeman Center effective through to 2026 to provide the following:

- Send Appropriately trained staff available as needed 24 hours a day for crisis intervention and support following an allegation of sexual abuse, including on-site at the hospital during a SANE exam.
- The vendor must maintain confidentiality
- The organization agrees to provide the assault hotline to each list of authorized calls noting that the call is free, confidential and unrecorded.

The interview with the SANE Coordinator for the Commonwealth of Massachusetts confirmed that there are SANE certified hospitals throughout the state. All efforts will be made to include sending a SANE certified nurse to a hospital site when needed. She indicated they have been successful with providing this level of exam for several years. Communication with the Elizabeth Freeman Center verified to the auditor that this organization, which is the recognized rape crisis center serving Berkshire County, would provide a trained victim advocate to provide support during the forensic exam, investigatory interviews and court proceedings, crisis intervention, emotional support services and any other relevant referrals. Request for an advocate is automatically addressed by the hospital and also addressed in the Berkshire County Sexual Assault Plan. Additionally, the facility has provided documentation demonstrating that there are four licensed mental health staff at the facility that could accompany and support the victim through the forensic medical examination process and investigatory interviews and would provide emotional support, crisis intervention, information, and referrals.

Finding of compliance is based on the following: Policy excerpts, review of investigations and interviews with the investigator support compliance. A PREA kit is available to help process evidence appropriately. Staff interviews supported that staff were aware of the requirements and actions needed to preserve evidence. An interview with the Elizabeth Freeman Center verified that certified sexual abuse counselors are available to respond to the hospital, when requested by the agency or the hospital. The Regional SANE Coordinator confirmed that SANE exams are available to this population. Policy supports that there is no cost to the inmate for the service.

## **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 the policy 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).) X ☐ 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 auditor reviewed, gathered, analyzed and/or retained the following evidence related to this standard:

- BCSO 914.01A Prevention of Sexual Abuse and Sexual Harassment of Inmates
- MOA Berkshire County District Attorney
- MOU with MSP
- Sexual Assault Response Plan
- Observations
- Interviews Sheriff
- Interviews Investigative Staff
- Documentation of investigations
- PAQ

The PAQ indicates there have been twelve allegations resulting in administrative investigations and zero resulting in criminal investigations in the past 12 months.

BCSO 914.01A 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.*  
*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.*  
*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.*

The Memorandum of Agreement (MOA) District Attorney's Office and the MOA with the Mass. State Police confirm that Massachusetts State Police investigators will be available to conduct potentially criminal investigations involving sexual abuse. The complete policy, BCSO 914.01A Prevention of Sexual Abuse and Sexual Harassment, can be viewed on the website at [PREA Policy - \(bcsoma.org\)](http://PREA Policy - (bcsoma.org)). The review of the investigations as well as interviews with the Sheriff and investigators support that any suspicion or knowledge of sexual abuse, sexual harassment, neglect, or retaliation will be reported to the supervisors through to the shift commander to the investigators. The Sexual Assault Response Plan further details how this communication is to occur. Review of the investigations supported this requirement. The auditor finds that this provides sufficient evidence to support a finding of compliance with the requirements of the standard.

## 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*)

The auditor reviewed, gathered, analyzed and/or retained the following evidence related to this standard:

- BCSO 915.3 Orientation & Training Requirements
- Training curriculum
- Staff training records
- Acknowledgement of training
- Observations
- Interviews Random staff
- Interview with the Training Coordinator
- PAQ
- FAQ

The PAQ indicates that all employees who have contact with inmates who were trained on PREA requirements as outlined in the provision, 257 total.

BCSO 915.3 Orientation & Training Requirements addresses that new employee receive PREA; PREA training is conducted prior to being independently assigned. PREA training is included for all in-service, demonstrating that all staff will receive PREA training annually.

Policy additionally states that PREA training will include

- (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.*

*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.*

*The agency shall document, through employee signature or electronic verification that employees understand the training they have received.*

The auditor was provided with the training curriculum (Power Point). There are 105 slides total. The training curriculum addresses the following:

- History of the law
- Definitions of PREA
- Zero tolerance

- How to fulfill responsibilities regarding sexual abuse, sexual harassment and all PREA-related incident – prevention, detection and response – immediate reporting
- State law regarding staff sexual abuse, consequences
- Inmates Right to be Free from Sexual Abuse, Sexual Harassment, Retaliation
- Male and female differences
- Criminal Justice Reform Act MGL c. 127, s. 32A
- Searches of transgender/intersex and treatment of gender non-conforming inmates)
- Risk screening tools
- Inmate education
- Inmate Reporting procedures, including third party and anonymous
- Dynamics of abuse and harassment in confinement
- Common reactions of abuse victims (physical and psychological)
- Red flags of victims of abuse
- Coordinated response Plan; staff responsibilities
- Disabled and LEP inmates
- The Elizabeth Freeman center
- Avoidance of inappropriate relationships
- Effective communication with the LGBTQI inmate
- Relevant laws

A quiz is required to be passed in order for staff to be considered trained, therefore acknowledging they understood the training. Additionally, there is an acknowledgement of completed and understanding of the content signed by staff. All staff interviews confirmed that they have received the training and that it addresses the topics required. The interview with the Training Coordinator demonstrated to the auditor his process for ensuring all staff have received the training. Training records were provided demonstrating that all staff have received the training and passed the quiz. This included corrections officers, case managers, medical staff, maintenance staff administrative staff among other positions, 374 staff total. Policies support that training will be conducted at least every two years with refresher information provided annually. Review of the training curriculum demonstrates that the required topics are addressed, including differences between male and female inmates. As clarified in the FAQ, staff receive PREA training prior to having contact with inmates. Interviews with corrections officers hired in the previous 12 months confirmed this to the auditor. The training coordinator confirmed that staff who transfer receive training in the same manner as a new employee.

Finding of compliance is based on the following: Policy, interviews with the Training Coordinator, random staff, review of the training curriculum, training completion documents all provided the auditor with sufficient evidence to support a finding of compliance.

## **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 auditor reviewed, gathered, analyzed and/or retained the following evidence related to this standard:

- BCSO 915.3 Orientation & Training Requirements
- Observations
- Volunteer/Student Intern Orientation
- Interview with the Volunteer Coordinator
- Interview with the Training Coordinator
- PAQ

The PAQ indicates there are 44 volunteers and contractors who have been trained in agency policies and procedures regarding sexual abuse/harassment prevention, detection, and response. After examination of staffing, it was concluded that during the onsite audit, the facility had no contractual employees. The only contractual positions are the dentist and per diem nurses.

BCSO 915.3 Orientation & Training Requirements standards

*(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 interview with the Volunteer Coordinator discussed the following:

- Most volunteers have had limited access, utilizing virtual programming during the pandemic.
- He reviews applications, if they appear to be someone who can provide programming, it is forwarded for a criminal background check.

- Upon clearance, they're scheduled for orientation, and provided PREA information packet for which they sign an acknowledgement. He states he has about ten to twelve volunteers providing AA/NA in the facility at the time of the audit.

The facility provided the auditor with the documentation given to Volunteers and Contractors. It includes the following:

- Overview
- Reporting Requirements
- Massachusetts Law – Criminal offense to have sexual contact with inmates
- Definitions -Sexual Abuse and Sexual Harassment
- Undue familiarity
- Red Flags
- Mandatory Reporting
- PREA Fact Sheet
- Acknowledgement of receipt of information and understanding of its contents

The interview with the Training Coordinator informed the auditor that volunteers attend orientation where PREA is reviewed in addition to Professional Boundaries.

Summary of evidence to support a finding of compliance:

Based on review of policy, the information provided to contractual staff and volunteers, review of the training documentation, interview with the Volunteer Coordinator and the Training Coordinator, the auditor finds sufficient evidence to support a finding of compliance with this standard. The operation exceeds the requirement by providing the annual refresher training for volunteers.

## 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 the comprehensive education referenced in 115.33(b)? ☒ Yes ☐ No
- Do inmates receive education upon transfer to a different facility to the extent that the policies and procedures of the inmate's new facility differ from those of the previous facility? ☒ Yes ☐ No

#### 115.33 (d)

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

#### 115.33 (e)

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

#### 115.33 (f)

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

#### Auditor Overall Compliance Determination

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

The auditor reviewed, gathered, analyzed and/or retained the following evidence related to this standard:

- BCSO 914.01A Prevention of Sexual Abuse and Sexual Harassment of Inmates
- BCSO 940.01 Admission and Orientation

- Inmate Handbook
- Review of PREA Video - JDI
- Observations posters, pamphlets
- Observation of the intake process
- Observation of orientation
- Interviews Intake staff
- Interviews with staff who conduct orientation
- Interviews Random inmates
- Intake records corresponding log of received inmates
- PAQ

The PAQ indicates that 570 inmates were admitted that were given information at intake, 279 stayed past 30 days who received comprehensive education on their rights to be free from both sexual abuse/harassment and retaliation for reporting such incidents and on agency policies and procedures for responding to such incidents within 30 days of intake.

BCSO 914.01A 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.*

BCSO 940.01 Admission and Orientation states, *all newly admitted inmates receive written or oral orientation information in a language in which the inmate is fluent, to include, but not limited to the Prison Rape Elimination Act materials. Completion of orientation shall be documented by statement that is signed and dated by the inmate and staff person presenting the orientation*

(a) The auditor was provided information for the intake process. The Initial orientation Checklist requires staff to provide the BCSO Rules and Regulation and Sexual Misconduct Policies and Procedures. Inmate's sign acknowledging receipt of this information. The Sexual Misconduct Informational Sheet reviews the following:

- Sexual abuse, sexual harassment and that inmates are incapable of consenting to sex with any employee or contract worker.
- Inmates should refrain from sexual conduct (verbal and physical) while incarcerated
- Names and titles of who to report to (Superintendent, Assistant Superintendent) and the phone number for the PREA Reporting line.
- Counseling is available to any victim.
- Retaliation for reporting is prohibited.

The Inmate Handbook states, Protecting Yourself from Sexual Assault which addresses zero tolerance, behaviors that may be or lead to sexual assault, information on how to protect themselves from sexual assault by an inmate and staff, and how to report (report immediately to any staff, including medical and mental health staff or clergy, their family or attorney). The auditor observed the receipt of the information while watching an inmate intake process at the onsite audit.

(b) The facility has two Captains who manage operations, one for sentenced, one for pretrial inmates. They work together to ensure daily operations are met as observed by the auditor during the onsite audit. They provide orientation to inmates individually, which includes review the video, which is entitled, PREA: What You Need to Know, produced by JDI; it is approximately sixteen minutes long and discusses the following: confined persons right to be free from sexual abuse and sexual harassment, there is a zero tolerance to any form of sexual abuse or sexual harassment, right to report privately and safely, free medical, mental health and trained sexual abuse counseling, definitions of sexual harassment, sexual abuse, avoiding behaviors that will help maintain safety, third party reports, the facility's requirement to continually provide information on how to report, including outside the facility; and reasonable communication with sexual abuse advocacy groups. The auditor observed this process during the onsite audit.

(c) All inmates housed at the facility have received this information. The auditor asked to speak with the inmate housed at the facility the longest. He confirmed that he has attended training regarding PREA. He has been confined at the jail since May 2017. The facility has been actively involved in complying with the PREA standards since prior to 2016.

(d) See comments in 115.16. Interviews with LEP inmates confirmed that they received information in a language they understood, one requested English, the other requested and received Spanish. Both expressed no concerns with the ability to understand their rights under this law. Intake staff were aware of the language line availability for use at intake. Disability needs are recognized and forwarded to the Superintendent, who serves at the ADA Coordinator, to ensure needs are addressed.

(e) The auditor requested and received documentation demonstrating for the first inmate to arrive each month for the last 12 months (thirteen examples provided) demonstrating information was received at intake, orientation was conducted, medical and mental health staff evaluated the inmate upon arrival and conducted follow up referral if requested, and the risk assessment, initial and follow up risk assessment.

(f) Numerous posters providing information on PREA were visible throughout the facility, including every housing unit in the same location. Each housing unit is designed the same. Inmates interviewed acknowledged that they knew of PREA by reading the posters. The posters contain information on the law, zero tolerance, hotline numbers (facility and district attorney) noting they are confidential and non-recorded, information about staff reporting requirements and confidentiality of reports, and information on the Elizabeth Freeman Center, no pin required, and confidential.

All inmates interviewed confirmed they were aware of the posters and the information they contained, their rights in accordance with this law, and the numerous options available to them for reporting. Most inmates indicated to the auditor they would report to staff, stating they trust that staff here will handle the information correctly and confidentiality. Many inmates complimented that staff here stating, they "care".

Finding of compliance is based on the following: Policy, review of information provided to the inmates, observations of the intake process, observation or orientation, interview with inmates, interview with the intake staff and unit managers (captains) provided the auditor with ample 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 receive 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*)

The auditor reviewed, gathered, analyzed and/or retained the following evidence related to this standard:

- BCSO 915.3 Orientation & Training Requirements
- Observations
- Interviews Investigative staff
- Training completion docs
- Curriculum for investigators
- Regular PREA Training documentation for investigators
- PAQ # of investigators agency

BCSO 915.03 Orientation & Training Requirements requires the following:

The BCSO will ensure that its PREA investigators have the following additional training techniques for interviewing sexual abuse victims, proper use of Miranda, Garrity and Carney warnings, sexual abuse evidence collection in confinement settings and the criteria and evidence required to substantiate a case administrative action or prosecution referral.

Currently there are five trained investigators. Training is conducted with the Massachusetts Department of Correction investigator training. Certificates of completion was provided for all five investigators. Additionally, the auditor observed that they received regular PREA training on the training records provided for 115.31.

The auditor reviewed the training curriculum. The training curriculum addressed the following topics over a course of three days:

- Introduction to Sexual Assault Investigation
- Defining PREA
- Evidence Protocol
- Interviewing, including Miranda and Garrity
- Investigative Outcomes
- Documentation
- Post Allegation

Finding of compliance is based on the following: Policy supports the requirements of the standards. Review of the investigations with corresponding certificates of training supported compliance. Interview with the investigators demonstrated knowledge regarding Miranda and Garrity warnings, interviewing victims, dynamics of abuse in a confinement setting and evidence collection. Investigators are on call if needed. They indicated they are being notified of any need to initiate investigations immediately. The interview and training records confirmed that the investigators also attend regular PREA training.

## **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? (N/A if the agency does not have any full- or part-time medical or mental health care practitioners who work regularly in its facilities.) ☒ Yes ☐ No ☐ NA
- 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? (N/A if the agency does not have any full- or part-time medical or mental health care practitioners who work regularly in its facilities.) ☒ Yes ☐ No ☐ NA

- 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? (N/A if the agency does not have any full- or part-time medical or mental health care practitioners who work regularly in its facilities.) ☒ Yes ☐ No ☐ NA
- 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? (N/A if the agency does not have any full- or part-time medical or mental health care practitioners who work regularly in its facilities.) ☒ Yes ☐ No ☐ NA

#### 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 *or* the agency does not employ medical staff.) ☐ 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? (N/A if the agency does not have any full- or part-time medical or mental health care practitioners who work regularly in its facilities.) ☒ Yes ☐ No ☐ NA

#### 115.35 (d)

- Do medical and mental health care practitioners employed by the agency also receive training mandated for employees by §115.31? (N/A if the agency does not have any full- or part-time medical or mental health care practitioners employed by the agency.) ☒ Yes ☐ No ☐ NA
- Do medical and mental health care practitioners contracted by or volunteering for the agency also receive training mandated for contractors and volunteers by §115.32? (N/A if the agency does not have any full- or part-time medical or mental health care practitioners contracted by or volunteering for the agency.) ☒ Yes ☐ No ☐ NA

#### Auditor Overall Compliance Determination

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

The auditor reviewed, gathered, analyzed and/or retained the following evidence related to this standard:

- BCSO 915.3 Orientation & Training Requirements
- Observations
- Interviews Medical staff
- Interviews Mental health staff
- Interview with the Training Coordinator
- Training curriculum
- Training Records medical and mental health staff
- Training records regular PREA training – medical and mental health staff
- PAQ

The PAQ indicates that the facility has twenty medical and mental health staff, 100% have received the training required by this standard.

BCSO 915.3 Orientation & Training Requirements requires all full-time and part-time medical and mental health who regularly work in BCSO facilities shall have specialized training 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.

Forensic exams are not conducted at the facility; they are sent to a nearby hospital. See comments to 115.21. Interviews with medical and mental health staff confirmed to the auditor that they complete specialized training in addition to regular PREA training. The auditor reviewed the curriculum for the specialized training. It provides detailed information on evidence collection and SANE Exams – Principles of Adult Sexual Assault Investigations. The Training Coordinator provided the auditor with documentation that Medical and Mental health staff have completed the specialized training during his interview. Regular PREA training, which medical and mental health staff attend, additionally provides information on 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.

Finding of compliance is based on the following: Policy supports the requirements of the standard, interviews with the medical and mental health staff, review of training documents, curriculum, sign off sheets acknowledging receipt of and understand of the training as well as the training quiz required to be passed by medical and mental health staff.

## **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, as 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, as 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, as 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 an incident of sexual abuse? ☒ Yes ☐ No
- Does the facility reassess an inmate's risk level when warranted due to 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 auditor reviewed, gathered, analyzed and/or retained the following evidence related to this standard:

- BCSO 914.01A Prevention of Sexual Abuse and Sexual Harassment of Inmates
- Interviews Staff who perform risk screens
- Random inmate interviews
- Random review of inmate's risk assessments
- Interview PREA Coordinator
- Sexual Abuse Incident Review checklist
- Inmate Length of Stay Analysis
- PAQ
- FAQ

The PAQ indicates that 570 inmates were screened for risk of sexual victimization or risk of sexually abusing other inmates within 72 hours of their entry into the facility, 279 inmates remained past 30 days) who were reassessed for their risk of sexual victimization or of being sexually abusive within 30 days after their arrival at the facility based upon any additional, relevant information received since intake. To support this data, the auditor was provided a "Inmate Length of Stay Analysis".

The facility reports that there are thirteen (13) sexually vulnerable and twenty (20) sexually aggressive inmates housed at the facility at the time of the audit.

BCSO 914.01A Prevention of Sexual Abuse and Sexual Harassment of Inmates states,  
*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.

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).

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 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

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.

(a)(b) Policy, interviews with Intake staff, observations of intake support that an initial intake screen is completed immediately upon arrival to assess risk of sexual abuse or risk of being sexually abused.

(c)(d)(e)An example of a completed Risk Assessment was sent to the auditor with the pre-audit documentation.

The objective screening tool is used considers the following information:

Risk of being Sexually vulnerable

- mental, physical, development disability
- age
- physical build
- first incarceration
- convictions for sex offense against an adult or child
- perception of or self identifies as gay, lesbian, bisexual, transgender, intersex or gender nonconforming
- staff perception of or self identifies as gay, lesbian, bisexual, transgender, intersex or gender nonconforming
- crimes exclusively nonviolent

- previous experience as a victim of sexual abuse community and while incarcerated
- previous placement in protective custody

inmate's perception of vulnerability

- detained solely for civil immigration
- prior institutional sexual activity

The risk screen developed and used at this facility addresses all of these requirements. It is prepared to address needs of offenders detained solely for civil immigration. The screen is completed upon arrival by the intake officers. It meets the requirements of an FAQ issued by the Department of Justice in that staff can make a subjective opinion of whether the inmate is perceived as gay, lesbian, bisexual, transgender, intersex or gender nonconforming.

(e) The screening tools addresses the following:

Risk of being Sexually Aggressive

- conviction for a crime related to sexual offense against a child or adult
- history of committing institutional sexual abuse, convicted of or known history
- history of sexual activity while incarcerated
- Gang affiliation
- History of assault for extortion while incarcerated
- Convictions of sex offense against a child or adult
- SORB level/prior conviction for a sexual offense
- Any other specific concerns

In addition to the requirements of the standard, the screen addresses gang affiliation.

The questions are asked verbally and in private according to the interview with the person who conducts risk assessments and observations of the process.

(f) The auditor interviewed the staff who completes the 30-day reassessment. It was confirmed to the auditor that this occurs in person, privately and the inmate is verbally asked the questions again. It was stated that if there is prior sexual abuse, information on the Elizabeth Freeman Center is provided to the inmate in the form of a brochure( the auditor was provided a copy of the brochure). They confirmed that inmates are not disciplined if they choose to not answer the questions. The supervisor and three case managers are available to complete this reassessment. This practice does meet the expectations clarified in a FAQ issued by the Department of Justice.

The auditor requested and received documentation demonstrating for the first inmate to arrive each month for the last 12 months (thirteen examples provided) demonstrating information was received at intake, orientation was conducted, medical and mental health staff evaluated the inmate upon arrival and conducted follow up referral if requested, and the risk assessment, initial and follow up risk assessment.

(g) Policy and interview with the PREA Coordinator and case manager assured the auditor that staff are observant and would communicate any information to the PREA Coordinator that may initiate an updated (when warranted referral, receipt of additional information or request) risk assessment would be completed. The PREA Coordinator and investigators assured the auditor in addition to policy that an updated risk assessment would be completed upon conclusion of a sexual abuse investigation. No examples were available to support this. After the onsite visit, the PREA Coordinator submitted documentation showing the PREA Incident Review Team form was amended to expressly include a recommendation to re-screen the alleged victim and alleged perpetrator when appropriate based on the investigation. The auditor found this credible after conducting that pre audit and onsite audit. The Sexual Abuse Incident review provides an area to assess if the risk assessment requires updating.

(h) The interview with the case manager and intake staff who conduct risk assessments confirmed to the auditor that they would not require an inmate to answer sensitive questions - (d)(1), (d)(7), (d)(8), or (d)(9) if they did not want to respond. Random inmate interviews confirmed that they did not believe they would be disciplined if they did not respond. This is noted on the BCSO PREA Screening Scale. Additionally, during observation of the Intake process and the Initial Risk Screening, the inmate opted to not answer one of these questions. The staff assured him he was not required to do so.

(i) Per the interview with the PREA Coordinator and observation of the inmate record storage area, paper versions of the risk assessments are maintained in an area which has appropriate controls on which staff can access the area. Policy supports that electronic information is available to staff (result only) while the details leading to the determination of sexually abusive or sexually vulnerable is controlled via access to the Offender Management System (OMS). The auditor observed this alert during the onsite audit.

Finding of compliance is based on the following: Policy supports compliance with all aspects of the standards. Inmates acknowledged being asked the questions on the risk assessment when they arrived and most acknowledged they were asked a second time. Inmates were asked if they felt they would be disciplined for not answering the questions; they answered no. Interview with the intake officer and case manager supports compliance with completing the risk screen upon arrival and again within 30 days. Strong evidence was provided that the inmate would not be disciplined for declining to answer such as random inmate interviews, observation of the intake process, policy, and the objective screening tool. The policy, case manager and PREA Coordinator interviews and observation confirmed that the information is securely stored electronically and the paper copy in a secure area with other inmate information.

## **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? (N/A if the agency has a dedicated facility, unit, or wing solely for the placement of LGBT or I inmates pursuant to a consent decree, legal settlement, or legal judgement.) ☐ Yes ☐ No ☒ NA
- 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? (N/A if the agency has a dedicated facility, unit, or wing solely for the

placement of LGBT or I inmates pursuant to a consent decree, legal settlement, or legal judgement.) ☐ Yes ☐ No ☒ NA

- 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? (N/A if the agency has a dedicated facility, unit, or wing solely for the placement of LGBT or I inmates pursuant to a consent decree, legal settlement, or legal judgement.) ☐ Yes ☐ No ☒ NA

#### **Auditor Overall Compliance Determination**

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

The auditor reviewed, gathered, analyzed and/or retained the following evidence related to this standard:

- BCSO 914.01A Prevention of Sexual Abuse and Sexual Harassment of Inmates
- BCSO 974.08 Personal Hygiene
- Observations
- Interviews PREA Coordinator
- Review of OMS Alerts

BCSO 914.01A Prevention of Sexual Abuse and Sexual Harassment of Inmates states,  
**INMATE EVALUATION**

*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.*

*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.*

*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.*

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

*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.*

*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.*

*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.*

The facility provided the auditor a report showing where sexually vulnerable and sexually abusive inmates are housed. This alert will activate if attempting to place a sexually vulnerable inmate in the same housing unit as a sexually aggressive inmate.

(a) (b) As indicated in policy, the information is maintained in the OMS which affords staff an alert if a sexually abusive inmate is in the area of a sexually vulnerable area. Movement and housing placement is controlled by the OMS. The auditor observed this process when watching an inmate being placed in Special Management Housing during the onsite audit. The Alert provides staff with "SA" (sexually aggressive) and/or "SV" (sexually vulnerable) alert tag in OMS as indicated by examples of the Inmate Summary provided to the auditor. If an officer attempts to house an inmate with an SA alert in the same cell as an inmate with an SV alert, the OMS system will not allow it

(c) (d) At the time of the audit, it was reported there were no inmates who identified as transgender/intersex. The interview with the PREA Coordinator confirmed to the auditor that the PREA Coordinator would be responsible for this review. Based on the size of the facility and involvement of the PREA Coordinator in daily activities, the auditor found this credible. Dialog with the PREA Coordinator provided anecdotal information of where in the past, a transgender female was placed in a female facility at another county jail. The auditor completed the audit at that jail and received the same information approximately one year earlier, making this information credible. Documentation was provided for this inmate however it was dated for 2020.

(f) At the request of the auditor, the facility added the following to policy: BCSO 974.08 Personal Hygiene states, The Berkshire County Sheriff's Office does not have communal showers. All showers consist of individual stalls separated by full walls with a solid door allowing staff for safety and security reasons to view non-private areas of the inmate to ensure their safety and security. If transgender or intersex inmates request to shower at a separate time from other inmates, their request will be accommodated provided it does not jeopardize safety or security. The auditor observed one shower stall which has a door long enough to provide appropriate privacy for a transgender inmate.

(g) During the audit process of touring reviewing documentation and interviewing staff, it is determined that this facility does not have dedicated facilities, units, or wings solely on the basis of such identification or status as transgender, intersex, homosexual, bi-sexual, gay or lesbian.

Finding of compliance is based on the following: Policies which support compliance, interviews with all staff and inmates interviews and observations during the onsite audit all provided the auditor with sufficient information to support a finding of compliance.

## **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 any access to programs, privileges, education, or work opportunities, does the facility document the opportunities that have been limited? (N/A if the facility *never* restricts access to programs, privileges, education, or work opportunities.) ☐ Yes ☐ No ☒ NA
- If the facility restricts any access to programs, privileges, education, or work opportunities, does the facility document the duration of the limitation? (N/A if the facility *never* restricts access to programs, privileges, education, or work opportunities.) ☐ Yes ☐ No ☒ NA
- If the facility restricts any access to programs, privileges, education, or work opportunities, does the facility document the reasons for such limitations? (N/A if the facility *never* restricts access to programs, privileges, education, or work opportunities.) ☐ Yes ☐ No ☒ NA

#### 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

#### 115.43 (e)

- 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

- 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 auditor reviewed, gathered, analyzed and/or retained the following evidence related to this standard:

- BCSO 914.01A Prevention of Sexual Abuse and Sexual Harassment of Inmates
- Observations: During the tour of Restricted Housing
- Interviews Superintendent
- Interviews Staff who supervise Restrictive Housing
- PAQ
- Restrictive Housing Review

The PAQ states that no inmates have been placed in involuntary protective custody due to their high risk of sexual victimization. The auditor found no evidence to dispute this during the audit process.

BCSO-081R Placement and Review of Inmates in Segregation states,  
*Special Protective Custody Rules for PREA states,*

*(A) Inmates at high risk for sexual victimization or alleged to have suffered sexual abuse 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 interview with one staff who regularly supervises Special Management Housing and one who works regularly in this area confirmed that no inmates have been placed in this classification for being at high risk for victimization or who has alleged being sexually abused. The facility was transparent with the auditor, providing documentation for one inmate who may potentially be a risk for sexual

victimization but the documentation and interview with the inmate clearly supported that it was voluntary, not involuntary, due to being at high risk for victimization.

Finding of compliance is based on the following: The PAQ states that no inmates have been placed in special management housing for protective custody to separate a victim from his abuser, or for being at high risk for sexual victimization. The auditor found no reason to dispute this fact during the audit process. Due to the physical plant, the facility has numerous options for placing an inmate for separation from his abuser without having to resort to placement in protective housing status. The interview with the Superintendent confirmed that special management housing will be used as a last resort. Interviews with one supervisor of the SHU and one officer who was working in the SHU support that they have no knowledge of inmates who are alleged victims, or at risk for victimization being placed in this unit. Based upon the written authority and these interviews, the auditor finds the facility is substantially compliant with this standard.

## 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? (N/A if the facility *never* houses inmates detained solely for civil immigration purposes) ☐ Yes ☐ No ☒ NA

#### 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 auditor reviewed, gathered, analyzed and/or retained the following evidence related to this standard:

- BCSO 914.01A Prevention of Sexual Abuse and Sexual Harassment of Inmates
- BCSO 934.02 Grievance Procedure
- Inmate Handbook
- PREA Intake Information
- MOU Berkshire County District Attorney
- Interviews inmates
- Interviews random staff
- Investigations

BCSO 914.01A Prevention of Sexual Abuse and Sexual Harassment of Inmates states,

#### **INMATE RESPONSIBILITIES & REPORTING**

*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.*

*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.*

BCSO 934.02 Grievance Procedure states, *PREA REPORTING*

115.51 *Inmate reporting.*

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.*

- 1) *Filing grievance (sealed envelope)*
- 2) *Call Hotline: 413-555-1234*
- 3) *Orally report to staff member or supervisor*
- 4) *Written letter to Sheriff*

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.*

*Berkshire County District Attorney  
7 North Street – PO Box 1969  
Pittsfield, MA 01201*

c. *Inmates seeking sexual abuse counseling can contact the Elizabeth Freeman Center. These calls are confidential and no information is reported back to the Sheriff's Office. Dial 333 (no pin required).*

d. *Inmates can also report through family, friends, attorney and/or anonymously.*

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

*Staff Reporting*

a. *The agency shall provide a method for staff to privately report sexual abuse and sexual harassment of inmates.*

- 1) *Immediate report to Shift Commander or the Supervisor – Staff may go outside the immediate chain of command if the alleged perpetrator is his/her supervisor.*
- 2) *Sexual Misconduct Report Form*

(a), (b) *The Inmate Handbook provides inmates the following Information:*

*If you want to report a sexual assault or sexual harassment or other sexualized behavior occurring during your incarceration, any retaliation by inmates or staff for reporting sexual abuse or sexual harassment or staff neglect or violation of their responsibilities which have contributed to an incident you may:*

- *Call the hotline with directions on how to do this on the inmate phone*
- *Call the District Attorney with address and phone number*

*The hotline is a phone number for internal reporting at the facility.*

*Additionally, inmates are notified that any staff who received a complaint, report, or other information concerning sexual abuse or sexual harassment is required to report to a BCSO official which includes*

allegations made to medical and mental health staff. This includes any sexual activity by anyone else occurring in their presence.

The Sexual Misconduct Policies and Procedures, which inmates sign acknowledging receipt of this information, has the following:

- Names and titles of who to report to (Superintendent, Assistant Superintendent) and the phone number for the PREA Reporting line.

As indicated in the narrative to standard 115.33, PREA posters observed throughout the facility provide specific information regarding reporting and confidentiality.

The agency has an agreement with the Berkshire County District Attorney's office. It confirmed that if the DA is notified of an incident of sexual abuse, even if the complaint is anonymous, the DA will immediately notify the BCSO so appropriate measures to separate the alleged victim and perpetrator, offer medical and mental health services and initiate an investigation.

Interviews with the inmates confirmed that most know of the option to report to the District Attorney. All knew they could report to staff, call the hotline and submit a written complaint. Most knew they could call their family and most knew they could report anonymous and on behalf of another inmate.

(c) Staff interviews confirmed that staff are aware of this expectation and support compliance, including the reporting of suspicions to their immediate supervisor, stating that this information is well received and handled appropriately by the supervisors. Upon receipt of a report, policy and interviews support that a PREA Incident Form is initiated.

(d) Staff interviews revealed that they could go directly to the PREA Coordinator, Superintendent or their union to report sexual abuse privately. When asked if they were aware of the ability to report to the DA, they mostly indicated that it is an option for them, if the situation warrants.

Finding of compliance is based on the following: Policy supports all requirements of the standard. Staff and inmate interviews acknowledge there are multiple methods for filing a complaint. Investigations were initiated based on numerous avenues. Review of the policies, investigations, interviews with staff and inmates, information provided at orientation all provided the auditor with sufficient evidence to support a finding of compliance with the standards.

## **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

### **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 auditor reviewed, gathered, analyzed and/or retained the following evidence related to this standard:

- BCSO 934.02 Grievance Procedure
- Attachment: Reporting Form for Sexual Misconduct Involving Inmate As the Victim

- Grievance Form
- Interview Grievance Coordinator/PREA Coordinator
- Review of investigations initiated by a grievance
- Review of log of grievances filed for the previous 12 months
- Inmate Handbook

BCSO-115R Grievance Procedure has a section entitled, PREA Reporting. PREA REPORTING which has the following information.

*Inmate reporting.*

*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.*

- 1) *Filing grievance (sealed envelope)*
- 2) *Call Hotline: 413-555-1234*
- 3) *Orally report to staff member or supervisor*
- 4) *Written letter to Sheriff*

*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.*

*Berkshire County District Attorney  
7 North Street – PO Box 1969  
Pittsfield, MA 01201*

*Inmates seeking sexual abuse counseling can contact the Elizabeth Freeman Center. These calls are confidential and no information is reported back to the Sheriff's Office. Dial 333 (no pin required).*

*Inmates can also report through family, friends, attorney and/or anonymously.*

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

*Staff Reporting*

*The agency shall provide a method for staff to privately report sexual abuse and sexual harassment of inmates.*

- 1) *Immediate report to Shift Commander or the Supervisor – Staff may go outside the immediate chain of command if the alleged perpetrator is his/her supervisor.*
- 2) *Sexual Misconduct Report Form*

*Exhaustion of administrative remedies.*

*a. An agency shall be exempt from this standard if it does not have administrative procedures to address inmate grievances regarding sexual abuse.*

*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.*

*b4. 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.
- d1 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.
- d2. Computation of the 90-day time period shall not include time consumed by inmates in preparing any administrative appeal.
- d3. 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.
- d4. 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 grievance shall be considered denied and the inmate may appeal to the next level.
- e1. 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.
- e2. 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.
- e3. If the inmate declines to have the request processed on his or her behalf, the agency shall document the inmate's decision.
- f1. 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
  2. Grievance in sealed envelope marked "EMERGENCY GRIEVANCE"
- f2. After receiving an emergency grievance alleging an inmate is subject to 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 five 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.

BCSO 914.01A Prevention of Sexual Abuse and Sexual Harassment of Inmates states,  
**STAFF RESPONSIBILITIES**

*All staff shall immediately contact the Shift Commander upon receipt of an emergency grievance. 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 Grievance form contains information regarding PREA allegations: **EMERGENCY GRIEVANCE [IMMEDIATE THREAT OF HARM, TO HEALTH OR SAFETY, PREA ( SUBSTANTIAL RISK OF IMMINENT SEXUAL ABUSE), ADA (PHYSICAL OR EMOTIONAL DISABILITY REQUIRING ACCOMMODATIONS)]**. **VERBALLY NOTIFY A STAFF MEMBER THAT THIS IS AN EMERGENCY GRIEVANCE.**

Attachment: This has the following information:

**REPORTING FORM FOR SEXUAL MISCONDUCT INVOLVING INMATE AS THE VICTIM**

**Date of Report:**    **Time of Report:**

**Name of Alleged Victim:**

*(Include complete name and commitment number if available)* **Alleged Perpetrator:**

*(Include complete name and identifying information)* **List of any potential witnesses to the alleged incident**

**Date of the alleged incident:**                      **Time of the alleged incident:** **Specific location where the incident is alleged to have occurred:**

**How did you learn of the allegation:**

**Date and time you learned of the allegation:**

**List any information you have concerning the alleged incident Action taken to this point:**

**Report completed by:**

**Shift Commander:**                      **Date & Time Report Received:**

The interview with the Grievance Coordinator/PREA Coordinator confirmed that any grievance received will be investigated and addressed. This was supported by review of five investigations initiated by the grievance process and/or emergency grievance process. The auditor requested and received a list of all grievances filed for the past 12 months and found no evidence of additional grievances related to an allegation of sexual abuse, sexual harassment, staff neglect leading to sexual abuse or sexual harassment, or retaliation. Notation that a grievance form can be used for ADA/PREA complaints is indicated in the Inmate Handbook on page 15.

Finding of compliance is based on the following: Policy supports all aspect of the provisions of this standard. The Inmate Handbook provides inmates with information specific to PREA Grievances. The interview with the Grievance Coordinator confirmed the grievance is processed and timelines/requirements noted in policy would be followed. Investigations initiated by the grievance process, including the emergency grievance process, were filed in accordance with policy and that standard provisions.

## **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? (N/A if the facility *never* has persons detained solely for civil immigration purposes.) ☐ Yes    ☐ No    ☒ NA
- 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 auditor reviewed, gathered, analyzed and/or retained the following evidence related to this standard:

- BCSO 914.01A Prevention of Sexual Abuse and Sexual Harassment of Inmates
- Information on Massachusetts Rape Crisis programs which includes Elizabeth Freeman Center
- Observations
- Inmate Handbook
- PREA Posters- Elizabeth Freeman Center
- Interviews Random inmates
- Contact with the Elizabeth Freeman Center using an inmate phone
- MOU with the Elizabeth Freeman Center
- Communication with the Elizabeth Freeman Center Executive Director
- Staff PREA training curriculum

BCSO 914.01A 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.*

A document entitled, "Massachusetts Rape Crisis Programs" support that these programs are funded in part by the Massachusetts Department of Public Health. They offer free, confidential services for adolescent and adult survivors provide trained rape crisis counselors at all local rape crisis program. This includes a 24/7 hotline counseling, information and referrals, meeting with sexual assault survivors 24/7 at a hospital or police station, accompany the sexual assault survivor to court, provide individual counseling, education, professional training and outreach. There are sixteen rape crisis center and one statewide hotline in Massachusetts. This publication is dated 2015. The Elizabeth Freeman Center is listed as one of the sixteen centers.

The Inmate Handbook provides information for inmates who do not wish to report sexual abuse can still obtain confidential counseling by contacting the Elizabeth Freeman – phone number, instructions for calling without use of pin, instructions for Spanish, and addresses.

The Elizabeth Freeman Center poster, visible in all housing units in the same locations, provides inmates the following information: Elizabeth Freeman Center's Hot Line (Private/Confidential Counseling), phone number and instructions on how to make the call from an inmate phone. The auditor tested the number from an inmate phone during the onsite visit and was able to access a counselor. No PIN was required for this call. The mailing address is also on the poster. The poster indicates, "This is confidential and will NOT result in a report to the Sheriff's Office."

Interviews with inmates revealed that approximately 70% of the inmates were aware of the availability of the telephone number and address. No one indicated they had called the number. Many were familiar with the organization from living in the community. Inmates acknowledged that the information/phone number is readily available on the poster in the unit.

The facility has entered into a Memorandum of Understandings (MOU) with the Elizabeth Freeman Center effective through to 2026 to provide the following: the organization agrees to provide the assault hotline to each list of authorized calls noting that the call is free, confidential and unrecorded. The auditor communicated with Executive director for this operation. She confirmed that her organization has an MOU with the Berkshire County Sheriff's Office. They do provide emotional support services through phone, mail and onsite if arranged. She indicated that her organization will not accept reports which is in accordance with MGL, c. 233, sections 20J and 20K, which protects the confidentiality of the caller. She confirmed the call is free and unrecorded. She states her staff discuss confidentiality with the caller, which includes informing them of the exceptions. The organization uses language line and ASL interpreters as needed. She informed the auditor that staff and volunteers are trained by receiving initially 50 hours of training which is supplemented by at least six hours of in-service training annually, shadowing of staff and regular programmatic and clinical supervision.

The explanation of how to qualify as an indigent inmate is located in the Inmate Handbook, page 16. It indicates that if declared indigent, the inmate may receive three post-free envelopes weekly for general correspondence. Per the Inmate Handbook, inmates may place all outgoing mail in the mailbox in the Pod, incoming mail will be opened by the Mail Officer and inspected for contraband. Incoming mail will be brought to the Pod by the Mail Officer for delivery to inmates daily, except for Sundays and holidays.

The Inmate Handbook informs inmates that telephones are available Monday through Friday 9:00am to 9:30pm, weekends 7:00am to 9:30pm. Six to eight telephones were observed by the auditor in every housing unit pod. Many were available for use at the time of the tour. They are appropriately spaced to afford privacy. There are two phones located in the intake area to provide inmates with free calls which is placed by a member of security staff.

Additionally, the PREA training curriculum reviews this information with staff making them aware of the services.

Finding of compliance is based on the following: Policy, communication with the Elizabeth Freeman Center, brochures available with their information, information provided at intake and on the PREA posters, observation of telephones, ability for indigent inmates to send letters, and staff training all provide evidence to support a finding of compliance.

## **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 auditor reviewed, gathered, analyzed and/or retained the following evidence related to this standard:

- Observations
- Agency website
- Posters located in the BCSO front lobby
- Interview with the Superintendent

The auditor reviewed the agency website. It has the following information.

#### *PREA Policy*

#### *Prison Rape Elimination Act (PREA)*

*The Prison Rape Elimination Act, or PREA, is a federal law enacted in 2003. In accordance with PREA, National Standards for Adult Prison and Jails have been issued for the prevention detection, reduction and elimination of sexual abuse and sexual harassment of inmates.*

*The Berkshire County Sheriff's Office (BCSO) fully supports PREA and the National Standards by enforcing a **Zero Tolerance Policy** concerning Sexual Abuse and Sexual Harassment in its facilities. The BCSO's Zero Tolerance Policy applies to every employee, contractor, volunteer, visitor, and every person under our correctional supervision.*

#### **Report any assault or harassment that is sexual in nature by:**

*Speaking in person or via telephone with Shift Commander (413) 443-7220 extension 1175 (ask for the Shift Commander);*

*Calling our PREA Coordinator Daniel Sheridan (413) 433-7220 extension 1402; or*

*Writing to Sheriff Bowler, 467 Cheshire Road, Pittsfield, MA 01201.*

*Any reports will be kept as confidential as the circumstance allows.*

*Pursuant to PREA National Standards Section 115.89 (b), the BCSO hereby provides the*

Finding of compliance is based on the following: Review of the agency website, posters regarding PREA in the lobby of the agency and interviews with the Superintendent and the PREA Coordinator acknowledging that third party complaints will be immediately addressed. One investigation was initiated through a third-party allegation reported within the facility.

## 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 auditor reviewed, gathered, analyzed and/or retained the following evidence related to this standard:

- Observations
- Interviews random staff
- Interviews medical & mental health staff
- Interview PREA Coordinator
- BCSO 914.01A Prevention of Sexual Abuse and Sexual Harassment of Inmates
- Inmate Handbook
- Interview with the investigator
- Review of the investigations
- Training curriculum

BCSO 914.01A 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.*

*After receiving the initial report, the Shift Commander must complete a Berkshire County PREA Incident Form whenever an inmate is the alleged subject of sexual abuse or sexual harassment (Attachment 1). This form must be submitted to the PREA mailing group as soon as possible and not later than the end of the shift. If the Alleged abuser is a recipient of the PREA mailing group, the Shift Commander will NOT submit the form electronically but will notify the Director of Security or an Assistant Superintendent.*

(a) Interviews with staff revealed that staff are keenly aware of the requirement to report immediately any suspicion, knowledge or information on sexual abuse, sexual harassment, retaliation and/or staff neglect that may contribute to sexual abuse or sexual harassment. Review of the investigations and interviews with the investigators support that an immediately notification is made. The facility uses a PREA Incident Form to initiate the reporting process and investigation.

(b) Staff was also keenly aware of the requirement to maintain confidentiality after the allegation is made.

(c) The interviews with medical and mental health staff confirmed to the auditor their awareness that they need to report. Review of the training curriculum reinforces the requirement of this provision. Mental Health staff have inmates sign an Informed Consent form which addresses the following: "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 my approval unless required by law (e.g. under 18, 60+, disabled, court order, etc.)". Additionally, the Inmate Handbook informs inmates of medical and mental health staff obligation to report any information or suspicion regarding sexual abuse or sexual harassment.

(d) This facility does not house inmates under the age of 18. Per the Massachusetts State Law, Elder abuse states, Elder Protective Services can only investigate cases of abuse where the person is age 60 and over and lives in the community.

(e) In accordance with policy, the PREA Incident Review is sent to the PREA mailing group, which includes investigators, per the PREA Coordinator, who is also an investigator. Review of all the investigations from the previous twelve months confirmed to the auditor that any allegation of sexual abuse or sexual harassment is sent to the investigator immediately for the initiation of any investigation.

Finding of compliance is based on the following: Policy addresses the requirements of the standard. The PREA training curriculum reinforces this requirement to report. The Inmate Handbook reinforces that any report made will be immediately addressed. Overall observations of the audit tasks such as the interviews with staff, including medical and mental health, investigators, and administrators support knowledge of the requirement, process and need to maintain confidentiality. Review of the investigations supported compliance with these provisions.

## 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 auditor reviewed, gathered, analyzed and/or retained the following evidence related to this standard:

- BCSO 914.01A Prevention of Sexual Abuse and Sexual Harassment of Inmates
- SARP
- PREA training
- Observations
- Interviews Sheriff
- Interview Superintendent
- Interview Random staff
- PAQ
- Documentation supporting action taken

The PAQ indicates there have been no times the facility determined that an inmate was at risk of imminent sexual abuse. The auditor found no reason to dispute this during the audit process.

BCSO 914.01A 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 shall attend annual training on sexual abuse and sexual harassment and related subjects. (See BCSO 915.01 et seq.)*
- 4) *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.*

*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*
2. *Grievance in sealed envelope marked “EMERGENCY GRIEVANCE”*
- f2. *After receiving an emergency grievance alleging an inmate is subject to 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 five 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.*

The auditor was provided documentation representing an allegation by an inmate that he believed he would be at imminent risk of sexual abuse and the appropriate action taken by staff to protect the inmate. Then the inmate requested an emergency grievance which was also filed. The interview with the Sheriff and the Superintendent confirmed that an inmate at imminent risk of sexual abuse or any imminent risk of harm shall have immediate action taken to ensure his safety. All staff interviews confirmed to the auditor that they would take immediate action if they believed an inmate was at imminent risk of sexual abuse. Inmate interviews illustrated to the auditor that staff are approachable. Corrections Officers and supervisors confirmed that this request to intervene before something has occurred would be supported, and action would be taken to protect the inmate before the believed event occurred. Based on this and overall observations during the audit, the auditor found this credible and to be an integral part of the culture of this facility.

## 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 auditor reviewed, gathered, analyzed and/or retained the following evidence related to this standard:

- BCSO 914.01A Prevention of Sexual Abuse and Sexual Harassment of Inmates
- Interview with Sheriff
- Interview Superintendent
- Documentation of notices sent
- PAQ

The PAQ indicates that six allegations were received that inmate was abused while confined at another facility, zero allegations of sexual abuse were received from another facility.

BCSO 914.01A 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.*

(a) (b) (c) In addition to policy, the interviews with the Sheriff and Superintendent confirmed that notifications of any allegations of sexual abuse received at this facility that occurred at another facility will be sent from facility head to facility head within 72 hours. The PAQ confirmed that this occurred six times, documentation of these notices, occurring within 72 hours, from facility head to facility head were provided to the auditor demonstrating compliance with these requirements.

(d) The PAQ indicates no notices were received from other agencies of allegations of sexual abuse that occurred at this facility in the previous twelve months. The auditor found this information credible after reviewing all investigations and the investigation data base. The interview with the Superintendent confirmed that any receipt of allegations that occurred at his facility will be immediately reported to the investigators for investigation.

Finding of compliance is based on the following: The policy, review of notification forms and interview with the Sheriff and Superintendent provided the auditor with sufficient evidence to support a finding of compliance.

## **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 auditor reviewed, gathered, analyzed and/or retained the following evidence related to this standard:

- BCSO 914.01A Prevention of Sexual Abuse and Sexual Harassment of Inmates
- Observations
- Random staff interviews
- Staff First Responder Cards
- PAQ

The PAQ indicates there were zero allegations of sexual abuse that allowed for time to collect evidence. The auditor found no reason to dispute this during the audit process.

BCSO 914.01A Prevention of Sexual Abuse and Sexual Harassment of Inmates states,  
**STAFF RESPONSIBILITIES**

*All BCSO staff (employees, contractors and volunteers) are responsible for contributing to the prevention of sexual abuse and sexual harassment.*

*First Responder Duties § 115.64*

- 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.*
- 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*
- 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.*
- 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.*

To help ensure that a proper response occurs, staff are issued a pocket-sized card with PREA First Responder Duties. Staff interviewed shared with the auditor that they maintain the card in their possession and were therefore articulate about their duties whether using the card for reference or not. The auditor observed and interviews reinforced that security staff are assigned to all areas and would be immediately available to assist a non-security staff person with the response. This response plan is reinforced in training which all staff attend.

Finding of compliance is based on the following: Policy provides specific direction on how to respond to an allegation of abuse to ensure safety of the victim as well as how to preserve evidence. All staff interviews demonstrated knowledge of the process support a finding of compliance.

## Standard 115.65: Coordinated response

### 115.65 (a)

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

#### Auditor Overall Compliance Determination

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

The auditor reviewed, gathered, analyzed and/or retained the following evidence related to this standard:

- BCSO 914.01A Prevention of Sexual Abuse and Sexual Harassment of Inmates
- Random staff interviews
- SARP
- Observations - PREA kit
- Interview Superintendent
- Interview with Shift Commander

BCSO 914.01A Prevention of Sexual Abuse and Sexual Harassment of Inmates states,  
**STAFF RESPONSIBILITIES**

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

The interview with the Superintendent confirmed the existence of the Sexual Assault Response Plan (SARP). Per the interview with the Shift Commander, The Sexual Abuse Response Plan is located at the Shift Commanders desk. The PREA kit is located in the medical department and intake and was observed by the auditor during the onsite audit. The SARP is ten (plus forms) pages which details all aspects of what is required and who is responsible for the actions. It includes details regarding first responders, medical and mental health practitioners, investigators, and facility leadership expectations.

Finding of compliance is based on the following: Policy, review of the SARP, interview with all staff who are knowledgeable regarding the plan, review of the PREA Incident Report and observations of the PREA kit all provided substantial evidence to support a finding of compliance.

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

#### 115.66 (a)

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

#### 115.66 (b)

- Auditor is not required to audit this provision.

#### Auditor Overall Compliance Determination

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

The auditor reviewed, gathered, analyzed and/or retained the following evidence related to this standard:

- BCSO 914.01A Prevention of Sexual Abuse and Sexual Harassment of Inmates
- Union contract
- Interview Sheriff
- Interview with a union representative
- Review of investigations

BCSO 914.01A Prevention of Sexual Abuse and Sexual Harassment of Inmates

#### **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 reviewed the following documents and found no limits to the Sheriff's Office to remove alleged staff abusers: MOU and contract between the Berkshire County Sheriff's Office and the International Brotherhood of Correctional Officers Local 1-297. An interview with a union representative indicated that his union has no concern with the need to remove staff from contact pending an investigation. The interview with the Sheriff confirmed that he has no restrictions from the union for removing a potential abuser from assignment pending an investigation. Review of the investigations revealed that when warranted, based on the allegation, staff will be reassigned pending the investigation.

Finding of compliance is based on the following: Review of policy and review of the union agreements as well as the interview with the Sheriff and union representative support the finding of compliance.

#### **Standard 115.67: Agency protection against retaliation**

**115.67 (a)**

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

**115.67 (b)**

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

**115.67 (c)**

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

for at least 90 days following a report of sexual abuse, does the agency: Monitor reassignments of staff? ☒ Yes ☐ No

- Does the agency continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need? ☒ Yes ☐ No

#### 115.67 (d)

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

#### 115.67 (e)

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

#### 115.67 (f)

- Auditor is not required to audit this provision.

#### Auditor Overall Compliance Determination

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

The auditor reviewed, gathered, analyzed and/or retained the following evidence related to this standard:

- BCSO 914.01A Prevention of Sexual Abuse and Sexual Harassment of Inmates
- Interviews Sheriff
- Interview Superintendent
- Interview with designated staff members charged with monitoring for retaliation (Unit Managers)
- Retaliation Monitoring Form – 10 completed
- Training Curriculum
- PAQ

The PAQ indicates that there were no reported incidents of retaliation occurred. The auditor found no reason to dispute this during the audit process.

BCSO 914.01A 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 retaliation 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 two Unit Managers are designated as the person responsible for retaliation monitoring. They both were interviewed; they confirmed they check in with the inmates periodically and would extend the monitoring beyond 90 days if deemed warranted. The PREA Coordinator remains informed of the progress. Ten examples of documentation of retaliation monitoring form were provided to the auditor. The form addresses the requirements of the provisions. It is signed by the PREA Reviewer, Assistant Superintendent and Director of Security/Investigator. Examples demonstrated the monitoring stopped when the investigation was concluded to be unfounded. Others were concluded prior to the 90 day review as the investigation revealed the allegation did not meet the definition of PREA, the review ended due to release, and/or they demonstrated a complete 90 day review.

The training curriculum reinforces to staff that inmates and staff are to be protected from retaliation for reporting sexual abuse or sexual harassment or cooperating with an investigation. The interview with the Assistant Deputy Superintendent for Administrative Services confirmed that she would be designated to monitor staff if an incident warranted such.

Finding of compliance is based on the following: Interview with the designated retaliation monitors supported compliance based on the responses to questions, experience at the facility, and daily activities which requires that they be involved with the inmate population continually. The interviews with the Sheriff, Superintendent, and PREA Coordinator support that the facility will protect anyone who fears retaliation. The physical plant affords numerous options to change housing, if needed. In an extreme event, they can make arrangements with another county jail to have the inmate placed there.

## **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 auditor reviewed, gathered, analyzed and/or retained the following evidence related to this standard:

- BCSO 914.01A Prevention of Sexual Abuse and Sexual Harassment of Inmates
- Interviews Superintendent
- Interview Staff who supervise restrictive housing
- PAQ

The PAQ indicates there has been no incident where an inmate who suffered sexual abuse was held in involuntary segregated housing in the past twelve months. The auditor found no reason to dispute this during the audit process.

BCSO-081R Placement and Review of Inmates in Segregation states,  
*Special Protective Custody Rules for PREA states,*

*(A) Inmates at high risk for sexual victimization or alleged to have suffered sexual abuse 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.*

Interviews with staff who regularly supervise special housing and the Superintendent both confirmed to the auditor that placement for an inmate who is alleged to have suffered sexual abuse has not occurred. The Superintendent reinforced that there are numerous options available to ensure a safe placement before use of special management. He noted that policy is in place should the options reviewed lead to that placement to ensure the provisions of the standard are met.

See comments to standard 115.43.

Finding of compliance is based on the following: The PAQ indicates they have not had to use restrictive housing to protect an inmate who is alleged to have suffered sexual abuse. Policy addresses the requirements in the event of an occurrence in the future, the interviews support the requirements of the standard.

## 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 auditor reviewed, gathered, analyzed and/or retained the following evidence related to this standard:

- BCSO 914.01A Prevention of Sexual Abuse and Sexual Harassment of Inmates
- BCSO-115R Grievance Procedure
- Observations
- Interviews investigative staff
- Interview with the Superintendent
- Interview with the PREA Coordinator
- MOU with Berkshire County DA
- MOU with MSP

- Investigative reports
- Retention schedule
- PAQ

PAQ indicates no substantiated allegations of conduct that appeared criminal were referred for prosecution since the last PREA audit. The auditor found no reason to dispute this during the audit process. Documentation from an incident that occurred in 2015 was provided to the auditor to support that a referral for prosecution would occur.

*BCSO 914.01A 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 (done by outside agencies) 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.*

BCSO-115R Grievance Procedure has a section entitled, PREA Reporting. PREA REPORTING which has the following information.

*Inmate reporting.*

*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.*

- 1) Filing grievance (sealed envelope)*
- 2) Call Hotline: 413-555-1234*
- 3) Orally report to staff member or supervisor*
- 4) Written letter to Sheriff*

*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.*

*Berkshire County District Attorney  
7 North Street – PO Box 1969  
Pittsfield, MA 01201*

*Inmates seeking sexual abuse counseling can contact the Elizabeth Freeman Center. These calls are confidential and no information is reported back to the Sheriff's Office. Dial 333 (no pin required). Inmates can also report through family, friends, attorney and/or anonymously.*

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

*Staff Reporting*

*The agency shall provide a method for staff to privately report sexual abuse and sexual harassment of inmates.*

- 1) Immediate report to Shift Commander or the Supervisor – Staff may go outside the immediate chain of command if the alleged perpetrator is his/her supervisor.*
- 2) Sexual Misconduct Report Form*

(a) Policy supports that inmate can report through numerous avenues, to include anonymously and third party. The interview with the investigator confirmed that any and all allegations, including anonymous and third party will be immediately investigated. One investigation reviewed was initiated by a third-party allegation.

(b) see comments to 115.34. All investigations reviewed were completed by an investigator who has received the specialized training.

(c) The interview with the investigator and review of the investigations confirmed that any relevant evidence is gathered to include physical, DNA (with the assistance of an investigator from the Berkshire County District Attorney) electronic monitoring data and interviews of all parties who may have relevant information. A data base is maintained to consult if there were prior investigations involving the individuals.

(d) (e) The interview with the investigator confirmed that he basis credibility on the collaborating evidence. He confirmed that polygraph or truth telling devices are not used. As stated, there is an MOU with the District Attorney in the event that an investigation appears criminal. The investigator confirmed they would be consulted before conducting compelled interviews.

(f) The investigator confirmed that staff actions or failures are all conserved when completing the investigation. Administrative investigations were documented. Investigations are completed in a standardized format.

(g) (h) Criminal investigations are conducted by the State Police Unit of the Berkshire Country Prosecutor's Office in accordance with the MOU. The policy and MOU confirm that criminal investigations will be documented.

(i) Policy, interview with the investigator and review of one investigation confirmed that the investigation will continue even when the alleged abuser or alleged perpetrator leave the facility.

(j) Policy and interview with the investigator and PREA Coordinator confirm that all reports are retained for as long as the alleged abuser is incarcerated or employed by the agency, plus five years. All information, including evidence is uploaded and stored in the investigation data base. Physical evidence is securely stored with the PREA investigator, area observed by the auditor. Retention is forever at this time.

(l) ) When the state police investigate, it is based on the agreement (MOU) with the Berkshire County Prosecutor's office. The PREA Coordinator/investigator confirmed that he is the main contact at the Sheriff's Office who remains informed of the progress of the investigation.

Finding of compliance is based on the following: As noted above, policy mandates compliance with the requirements of the standard. Twelve completed administrative investigations were reviewed and demonstrated compliance with the standards. Interview with the two main PREA investigators confirmed compliance with all the provisions of the 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 auditor reviewed, gathered, analyzed and/or retained the following evidence related to this standard:

- BCSO 914.01A Prevention of Sexual Abuse and Sexual Harassment of Inmates
- Interviews Investigative staff
- Review of investigations using preponderance of evidence (administrative)

*BCSO 914.01A Prevention of Sexual Abuse and Sexual Harassment of Inmates states, INVESTIGATIONS*

*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 interview with the investigator confirmed this, review of the investigations supported this standard of evidence. Review of the investigations by the auditor concluded that this standard is used and it was applied appropriately.

Finding of compliance is based on the following: Policy excerpts noted above as well as review of the investigations and interviews with the investigators support 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 inmate, unless the agency has determined that the allegation is unfounded, or unless the inmate has been released from custody, does the agency subsequently inform the inmate whenever: The staff member is no longer posted within the inmate's unit? ☒ Yes ☐ No
- Following an inmate's allegation that a staff member has committed sexual abuse against the inmate, unless the agency has determined that the allegation is unfounded, or unless the inmate has been released from custody, does the agency subsequently inform the inmate whenever: The staff member is no longer employed at the facility? ☒ Yes ☐ No
- Following an inmate's allegation that a staff member has committed sexual abuse against the inmate, unless the agency has determined that the allegation is unfounded, or unless the inmate has been released from custody, does the agency subsequently inform the inmate whenever: The agency learns that the staff member has been indicted on a charge related to sexual abuse in the facility? ☒ Yes ☐ No

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

#### 115.73 (d)

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

#### 115.73 (e)

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

#### 115.73 (f)

- Auditor is not required to audit this provision.

#### Auditor Overall Compliance Determination

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

The auditor reviewed, gathered, analyzed and/or retained the following evidence related to this standard:

- BCSO 914.01A Prevention of Sexual Abuse and Sexual Harassment of Inmates
- Notifications to inmates of PREA Investigative Action
- Interview Superintendent
- Interviews with Investigative staff
- PAQ

The PAQ indicates the following:

zero investigations of alleged sexual abuse completed

zero investigations of alleged sexual abuse completed where inmate was notified of the results (verbally or in writing)

zero sexual abuse investigations completed by an outside agency

zero notifications of the results of an investigation completed by an outside agency  
zero substantiated cases of staff sexual abuse  
zero notifications made pursuant to those  
zero notifications provide to inmates  
zero those that are documented

BCSO 914.01A Prevention of Sexual Abuse and Sexual Harassment of Inmates states,  
**REPORTING TO INMATES**

*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.*

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

*Following an inmate's allegation that a staff member has committed sexual 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.*

*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.*

Ten examples of notifications to inmates were provided with the pre-audit documentation demonstrating compliance with notification of the investigation for sexual abuse. The interview with the investigators supports that they confirm this is their obligation as the investigator. The interview with the Superintendent confirmed that a notification will be provided to the inmate of the outcome of a sexual abuse investigation. The notification form addresses all aspects of the provisions as required by this standard.

Finding of compliance is based on the following: Policy excerpts demonstrate compliance with the requirements. Interview with the investigator and observations of the notices provided sufficient evidence to support a finding of compliance.

## **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 auditor reviewed, gathered, analyzed and/or retained the following evidence related to this standard:

- BCSO 914.01A Prevention of Sexual Abuse and Sexual Harassment of Inmates
- Observations
- Interviews with the Superintendent and PREA Coordinator ( who also conducts employee discipline)
- Sexual Assault Response Plan
- PAQ

The PAQ indicates that no staff have been terminated, nor referred to licensing bodies for violating agency sexual abuse and/or sexual harassment policy. The auditor found no reason to dispute this during the audit process.

*BCSO 914.01A Prevention of Sexual Abuse and Sexual Harassment of Inmates*  
**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.*

The Sexual Assault Response Plan, Post Investigation Corrective Action reinforces that employees are subject to disciplinary action up to and including discharge for violating agency sexual abuse or sexual harassment policies. "Termination shall be the presumptive disciplinary sanction for staff who have engaged in sexual abuse." It additionally supports that disciplinary sanctions for violations of agency policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) are 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. 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, are reported to law enforcement agencies (unless the activity was clearly not criminal), and to any relevant licensing bodies.

Additionally, dialogue with the Superintendent, investigators, and PREA Coordinator support that all allegations against staff for sexual abuse, sexual harassment, retaliation or neglect are investigated and disciplinary action would be commensurate with the circumstances up to termination for sexual abuse. Policy excerpts quoted above meet the requirements of the standard. The Pre-Audit Questionnaire notes that no staff have been terminated for sexual abuse or sexual harassment towards an inmate in the past 12 months. The auditor found no evidence to dispute this during the audit process. Documentation was provided that demonstrated notification to a licensing board and termination of an employee was provided; both were prior to the reporting period for this audit (over three years) and the licensing board revoked the teacher's license. The auditor finds there is sufficient information to support a finding of compliance with this standard.

## **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 auditor reviewed, gathered, analyzed and/or retained the following evidence related to this standard:

- BCSO 914.01A Prevention of Sexual Abuse and Sexual Harassment of Inmates
- Interviews Superintendent
- PREA Guide for Volunteers and Contractors
- Sexual Assault Response Plan, Post Investigation Corrective Action
- PAQ

The PAQ notes that no contractor or volunteer has been involved in an investigation regarding sexual abuse or sexual harassment towards an inmate. The auditor found no evidence to dispute this statement during the audit process.

*BCSO 914.01A Prevention of Sexual Abuse and Sexual Harassment of Inmates*  
**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.*

The PREA Guide for Volunteers and Contractors addresses red flags, mandatory reporting, undue familiarity, and the Massachusetts General Law Chapter 268 Section 21A which states that inmates by law are deemed incapable of consenting to sex and engaging in sexual relations with an inmate is a felony punishable up to five years in prison.

The Sexual Assault Response Plan, Post Investigation Corrective Action confirms that any contractor or volunteer who engages in sexual abuse 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. The BCSO 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.

Finding of compliance is based on the following: Policy excerpts quoted above meet the requirements of the standard. The PAQ notes that no volunteers or contractors have been terminated for sexual abuse or sexual harassment towards an inmate in the past 12 months. The auditor found no evidence to dispute this during the audit process. Interviews with the Superintendent supported that these requirements will be followed.

## **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)

- If the agency prohibits all sexual activity between inmates, 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 auditor reviewed, gathered, analyzed and/or retained the following evidence related to this standard:

- BCSO 914.01A Prevention of Sexual Abuse and Sexual Harassment of Inmates
- Sexual Assault Response Plan

- Observations
- Interviews Superintendent
- Interview with the Disciplinary Officer
- Interview with the Mental Health Director
- Inmate Handbook
- PAQ
- Example of disciplinary action on an inmate against staff that was not consensual

The PAQ indicates there have been no administrative findings or criminal findings of inmate-on-inmate sexual abuse. The auditor found no reason to dispute this during the audit process.

#### *BCSO 914.01A Prevention of Sexual Abuse and Sexual Harassment of Inmates*

##### **CORRECTIVE ACTION**

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

The Sexual Assault Response Plan additionally confirms that 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. 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. 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. 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. 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. 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. The BCSO policy prohibits all sexual activity involving one or more 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.

(a)The Inmate Handbook informs the inmates of the following: Berkshire County Sheriff's Office will aggressively pursue the discipline and prosecution of any perpetrator of sexual abuse, whether the perpetrator is a staff person, contractor, volunteer or inmate. that engaging in sexual acts with others is a major offense. Additional information of what is considered behavior that will initiate disciplinary action is addressed to include the 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 sexual misconduct which is considered a major offense.

(b)The interview with the disciplinary coordinator confirmed to the auditor that sanctions would be commensurate with the nature and circumstances of the offense.

(c) The interview with the disciplinary coordinator and the Mental Health Director confirmed that an inmate's mental status would be reviewed prior to determining disciplinary sanctions.

(d) The interview with the Mental Health Director confirms that his staff could work with an individual individually to address these issues, if he was willing. It would not be a requirement for release.

(e) The interview with the disciplinary coordinator confirmed that an inmate would not be sanctioned for sexual contact with a staff unless the staff member did not consent to the contact. The auditor requested and received copies of sexual misconducts written on inmates and confirmed that they were not for sexual activity with staff, where the staff consented.

(f) Policy supports that 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) The Offender Handbook confirms that engaging in sexual acts with others is

prohibited. Finding of compliance is based on the following:

Review of the policies and documents noted above support a finding of compliance. The interview with the Superintendent supported that sanctions are proportionate to the nature and circumstance and mental disability/illness is considered when determining sanctions in accordance with policy. The interview with the Mental Health Director supports that the inmate will be referred for appropriate counseling if found guilty of a sexual misconduct. The interview with the disciplinary officer confirmed compliance with provisions (b), (c) and (e). Review of the misconducts written on inmates for the previous 12 months demonstrated they were not for sexual activity with staff who consented. Based on analysis of the evidence, the auditor finds the facility to be compliant with the requirements of this standard.

## 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 auditor reviewed, gathered, analyzed and/or retained the following evidence related to this standard:

- BCSO 914.01A Prevention of Sexual Abuse and Sexual Harassment of Inmates
- Observations of the intake process
- Interviews Inmates who disclose sexual victimization at risk screening
- Interview staff responsible for risk screening
- Interview Medical and mental health staff
- Document's showing limited information to custody staff
- Training MA Sexual Assault Evidence Collection Kit/SANE Overview
- Random request for intake documents
- PAQ

The PAQ indicates that 100% of inmates who disclosed prior victimization during screening who were offered a follow up meeting with medical/mental health practitioner.

BCSO 914.01A 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*

(a) (b) This is not applicable to this facility as it is a jail.

(c). Two documents reflecting this referral were provided to the auditor for review with the pre-audit documentation. The interview with the mental health staff confirmed that all inmates assessed in booking who are deemed sexually vulnerable are referred to him and that a mental health evaluation is conducted in at least five days. For those inmates who would indicate to the auditor that they reported prior sexual abuse, they confirmed they were able to speak with mental health staff.

(d) The auditor requested and received documentation demonstrating for the first inmate to arrive each month for the last 12 months (thirteen examples provided) demonstrating information was received at intake, orientation was conducted, medical and mental health staff evaluated the inmate upon arrival and conducted follow up referral if requested, and the risk assessment, initial and follow up risk assessment. The auditor was provided the secure medical and mental health information from the intake process; it is maintained in the medical record which has strict limits on who can access. Results of the risk assessment are located in the Housing Alert, but not how the information was obtained to afford staff the ability to ensure safety but not violate inmate privacy.

(e) Medical and mental health staff are trained to obtain informed consent prior to reporting information about prior sexual victimization that did not occur in an institutional setting. This was confirmed during the interviews with medical and mental health staff. A consent form/MH release of information form was provided that specifically addresses this information.

Finding of compliance is based on the following: Review of policy, interviews with staff, including medical and mental health staff support a finding of compliance. It was confirmed that referrals are made based on information received at intake. However, all inmates are seen by medical and mental health staff upon arrival and prior sexual abuse is reviewed at this intake process. Medical and mental health staff confirmed they obtain informed consent by having the inmate sign a form, if making a referral outside the agency related to prior victimization. This information is reaffirmed in the specialized training for medical and mental health staff.

## **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 auditor reviewed, gathered, analyzed and/or retained the following evidence related to this standard:

- BCSO 914.01A Prevention of Sexual Abuse and Sexual Harassment of Inmates
- BCSO 932.11 Contraception
- Sexual Assault Response Plan (SARP)
- Observations made during the tour
- Interviews medical and mental health staff
- SARP

BCSO 914.01A Prevention of Sexual Abuse and Sexual Harassment of Inmates

#### 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.*

(a) Policy and the interview with the Health Services Administrator and Mental Health Director confirmed that access to 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 would occur. This is also reinforced in the SARP. The SARP provides a detailed response plan and information regarding the hospital used and reporting process.

(b) It was reported that medical staff are on duty 24 hours a day, seven days a week. The auditor found this credible. Policy requires that they be immediately notified if a report of sexual abuse is made.

(c) Policy supports the requirement of the standard. There was no reported incident that warranted post sexual abuse treatment in the previous 12 months as reported by the facility. The auditor found this information credible. The interview with the Health Services Administrator supported that this would be addressed. BCSO 932.11 Contraception confirms that emergency contraception is available, including after a recent sexual assault.

(d) Policy supports the requirement of the standard. There was no reported incident that warranted post sexual abuse treatment in the previous 12 months as reported by the facility. The auditor found this information credible. The interview with the Health Services Administrator confirmed that the provisions, included in the policy would occur. Inmates would not be charged financially for these services whether they cooperate or not. Therefore, the auditor found there is sufficient evidence to support a finding of compliance.

Based on the evidence illustrated, the auditor finds sufficient evidence to support a finding of compliance and that it is credible that no incident has occurred in the previous twelve-month reporting period that would require this intervention.

## **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. *Note: in "all-male" facilities, there may be inmates who identify as transgender men who may have female genitalia. Auditors should be sure to know whether such individuals may be in the population and whether this provision may apply in specific circumstances.*) ☒ 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. *Note: in “all-male” facilities, there may be inmates who identify as transgender men who may have female genitalia. Auditors should be sure to know whether such individuals may be in the population and whether this provision may apply in specific circumstances.*) ☒ 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 auditor reviewed, gathered, analyzed and/or retained the following evidence related to this standard:

- BCSO 914.01A Prevention of Sexual Abuse and Sexual Harassment of Inmates
- Observations made during the tour
- Interviews Medical and mental health staff
- Facility Coordinated Response Plan

### ACCESS TO EMERGENCY MEDICAL AND MENTAL HEALTH SERVICES

*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. 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.*

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

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

*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.*

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

(a) (b) (c) Policy supports the requirement of the standard. There was no reported incident that warranted post sexual abuse treatment in the previous 12 months as reported by the facility. The auditor found this information credible. The interview with the Health Services Administrator confirmed that the facility would 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, the evaluation and treatment of such victims would 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, and this would be consistent with community level of care. She indicated follow up treatment can be through referrals if discharged or placed on the medical summary if being transferred to prison.

(d) (e) The facility can house female detainees temporarily who are waiting for court or release. Although highly unlikely, if abuse occurred against a female the provisions of the standard are addressed in policy.

(f) (g) Policy and the interview with the Health Services Administrator confirmed that inmates would be offered tests for sexually transmitted infections as deemed medically appropriate and they would not be charged for the cost, regardless of whether the inmate cooperates with an investigation arising out of the incident.

(h) This is not applicable to this facility as it is a jail.

Policy supports the requirement of the standard. There was no reported incident that warranted post sexual abuse treatment in the previous 12 months as reported by the facility. The auditor found this information credible. The interview with the Health Services Administrator confirmed that actions required by the provisions of the standard would occur at no cost to the inmate.

## 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 auditor reviewed, gathered, analyzed and/or retained the following evidence related to this standard:

- BCSO 914.01A Prevention of Sexual Abuse and Sexual Harassment of Inmates
- Sexual Abuse incident Reviews – thirteen completed examples
- Interview with members of the Sexual Abuse Incident Review Team
- Interview with the Superintendent
- PAQ

The PAQ indicates that there were no criminal and/or administrative investigations of alleged sexual abuse completed at the facility, excluding only “unfounded” incidents.

BCSO 914.01A Prevention of Sexual Abuse and Sexual Harassment of Inmates states,  
*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.*

Interviews with members of the review team (investigator, medical staff and the PREA Coordinator) and the sexual assault incident review form itself confirmed that the requirements of the standard are all considered when conducting the review. Sexual Abuse Incident Review meeting minutes were reviewed, thirteen total. No recommendations were made during these reviews. It reflects that the team determines the finding of substantiated, unsubstantiated or unfounded after review of the evidence. The date reflected the meeting was held within 30 days of the conclusion of the investigation. The team consisted of the AS Sheridan (PREA Coordinator), Assist. Deputy Superintendents, Sergeants, and Captains. It was reported that medical and mental health input is obtained when relevant. Findings are sent to the Sheriff, Superintendent and PREA Coordinator.

Finding of compliance is based on the following: Policy excerpts noted above support the requirements of the standard. PREA incident reviews address all provisions of the standard. The interview with members of the incident review team confirmed that the provisions are met and addressed. The facility exceeded the standard by conducting incident reviews even when sexual abuse was not alleged and even when the investigation concluded the incident did not meet the definition of sexual harassment or sexual assault under PREA. This shows a commitment to eradicating sexual abuse and harassment and that staff and inmates know any alleged sexual behavior will be taken seriously and fully investigated and reviewed by a multi-disciplinary team.

## **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 auditor reviewed, gathered, analyzed and/or retained the following evidence related to this standard:

- Interview PREA Coordinator
- Annual Report 2021
- Last SSV submitted to the DOJ
- Observations

BCSO 914.01A 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.

BCSO 914.01A Prevention of Sexual Abuse and Sexual Harassment of Inmates uses the following definitions consistent with definitions in the PREA law.

**DEFINITIONS - Definitions related to sexual abuse and harassment**

**Sexual abuse includes—**

- (a) Sexual abuse of an inmate, detainee, or resident by another inmate, detainee, or resident; and
  - (b) Sexual abuse of an inmate, detainee, or resident by a staff member, contractor, or volunteer.
- Sexual abuse of an inmate, detainee, or resident by another inmate, detainee, or resident includes any of the following acts, if the victim does not consent, is coerced into such act by overt or implied threats of violence, or is unable to consent or refuse:

- (a) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
- (b) Contact between the mouth and the penis, vulva, or anus;
- (c) Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument; and
- (d) Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation.

Sexual abuse of an inmate, detainee, or resident by a staff member, contractor, or volunteer includes any of the following acts, with or without consent of the inmate, detainee, or resident:

- (a) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
- (b) Contact between the mouth and the penis, vulva, or anus;
- (c) Contact between the mouth and any body part where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
- (d) Penetration of the anal or genital opening, however slight, by a hand, finger, object, or other instrument, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
- (e) Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
- (f) Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described in paragraphs (1)-(5) of this section;
- (g) Any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of an inmate, detainee, or resident, and
- (h) Voyeurism by a staff member, contractor, or volunteer.

Voyeurism by a staff member, contractor, or volunteer means an invasion of privacy of an inmate, detainee, or resident by staff for reasons unrelated to official duties, such as peering at an inmate who

*is using a toilet in his or her cell to perform bodily functions; requiring an inmate to expose his or her buttocks, genitals, or breasts; or taking images of all or part of an inmate's naked body or of an inmate performing bodily functions.*

*For PREA purposes Sexual harassment includes—*

*(a) Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one inmate, detainee, or resident directed toward another; and*

*(b) Repeated verbal comments or gestures of a sexual nature to an inmate, detainee, or resident by a staff member, contractor, or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.*

*Under the BCSO sexual harassment policy, any conduct of a sexual nature (whether physical verbal or otherwise) may constitute sexual harassment and or other prohibited sexual misconduct regardless of whether it is repeated or unwelcome. Sexual conduct by staff, contractors, volunteers, visitors or inmates will not be tolerated.*

Policy supports the requirements of the provisions of the standard. Observations during the tour demonstrated that data is maintained in the risk assessment paper copy, placed in the inmate file in a secure room, investigation data base, OMS and also secured in the PREA Coordinators office. The PREA Coordinator indicates he uses all of this data to aggregate the information at least annually, based on the definitions in policy, which are consistent with definitions in the law, which are reinforced in training. The interview with the PREA Coordinator additionally confirmed that he last received a request for the Survey on Sexual Victimization in 2012. This facility does not contract for the confinement of inmates with private entities. The Annual Report, located on the website, was provided to the auditor for review.

Finding of compliance is based on the following: Policy excerpts noted above support the requirements of the standard. Definitions consistent with the PREA law are in policy. Data is aggregated annually. Data is stored that would include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence (SVV) conducted by the Department of Justice. The PREA Coordinator confirmed that he was last required to complete the SVV in 2012.

## **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 auditor reviewed, gathered, analyzed and/or retained the following evidence related to this standard:

- BCSO 914.01A Prevention of Sexual Abuse and Sexual Harassment of Inmates
- Observations
- Interview with the Sheriff
- Interview PREA Coordinator
- Link to website
- Annual Report on the Prison Rape Elimination Act

BCSO 914.01A 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 interview with the Sheriff confirmed that incident based sexual abuse data is used to assess and improve prevention, detection and response policies. He confirmed that he does approve the reports. Review of the report demonstrated to the auditor the following:

- Summary of current year statistics
- Analysis of those statistics
- Review of the previous audit findings
- Review of the emotional support services provided
- Historical data analysis for the previous five years
- Review of video monitoring upgrades
- Review of training for staff
- Review of changes implemented by the Reform Act 2018
- PREA Committee Meetings
- Summary of effects of the pandemic
- Summary of active efforts toward improvement

Finding of compliance is based on the following: Policy excerpts noted above support a finding of compliance. The annual report is located on the website. Assessment of comparisons affirms that allegations are low, supporting that staff excel at prevention in the facility. The interview with the Sheriff supports the process and use of the information.

## **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 auditor reviewed, gathered, analyzed and/or retained the following evidence related to this standard:

- BCSO 914.01A Prevention of Sexual Abuse and Sexual Harassment of Inmates
- Interviews PREA Coordinator
- Documentation that it is on the website
- Retention Schedule

BCSO 914.01A 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.*

Finding of compliance is based on the following: Policy supports the requirements of the standards. The interview with the PREA Coordinator supports that data is securely maintained and will be maintained for the required 10 years. Aggregated data is included on the Annual report for 2021 and is available for review on the agency website. No personal identifiers required redaction. The retention schedule confirms that inmate investigation records are retained for 10 years. Based on the above, the auditor finds this standard to be in compliance.

## AUDITING AND CORRECTIVE ACTION

### Standard 115.401: Frequency and scope of audits

#### 115.401 (a)

- During the prior three-year audit period, did the agency ensure that each facility operated by the agency, or by a private organization on behalf of the agency, was audited at least once? (Note:

*The response here is purely informational. A "no" response does not impact overall compliance with this standard.)* ☒ Yes ☐ No

#### 115.401 (b)

- Is this the first year of the current audit cycle? (Note: a "no" response does not impact overall compliance with this standard.) ☒ Yes ☐ No

- If this is the second year of the current audit cycle, did the agency ensure that at least one-third of each facility type operated by the agency, or by a private organization on behalf of the agency, was audited during the first year of the current audit cycle? (N/A if this is **not** the *second* year of the current audit cycle.) ☐ Yes ☐ No ☒ NA
- If this is the third year of the current audit cycle, did the agency ensure that at least two-thirds of each facility type operated by the agency, or by a private organization on behalf of the agency, were audited during the first two years of the current audit cycle? (N/A if this is **not** the *third* year of the current audit cycle.) ☐ Yes ☐ No ☒ NA

#### 115.401 (h)

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

#### 115.401 (i)

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

#### 115.401 (m)

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

#### 115.401 (n)

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

#### Auditor Overall Compliance Determination

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

See narrative report for further details.

#### 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. The review period is for prior audits completed during the past three years PRECEDING THIS AUDIT. 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 auditor report for the preceding audit is posted 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*

**Auditor Signature**

**Date July 17, 2022**