PREA AUDIT: AUDITOR'S SUMMARY REPORT

Adult Prisons and Jails

[Following information to be populated from pre-audit questionnaire]			
Auditor Information:			
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Facility Information:			
Facility Name: Pelican Bay State Prison (PBSP)			
Facility physical address: 5905 Lake Earl Drive, Crescent City, CA 95531			
Facility mailing address: (if different from above)			
Facility telephone number: 707-465-1000			
Date of facility visit: January 10-12, 2017			
The facility is:	☐ Military	☐ County	☐ Federal
	☐ Private for profit	☐ Municipal	XX State
	☐ Private not for profit		
Facility Type:	XPrison	☐ Jail	
Name of facility's Chief Executive Officer: Clark Ducart			
Number of staff assigned to the facility in the last 12 months: 1343			
Designed facility capacity: 3724			
Facility security levels/inmates custody levels: Levels I and IV			
Age range of population: Adult 18+			
Name of PREA Compliance Manger: Kevin Osborne		**Title:** Captain	
E-Mail Address: Kevin.sosborne@cdcr.ca.gov		**Phone Number**: 707-465-9079	
Agency Information			
Name of agency: California Department of Corrections and Rehabilitation			
Governing authority or parent agency: (if applicable) State of California			
Physical address: 1515 "S" Street, Sacramento, CA 95811			
Mailing address: (if different from above) P.O. Box 942883, Sacramento, CA 94283			
Telephone Number: 916-985-2561			
Agency Chief Executive Officer			
Name: Scott Kernan		**Title:** CDCR Secretary	
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Statewide PREA Coordinator			
Name: Shannon Stark		**Title:** Captain	
E-Mail Address: Shannon.stark@cdcr.ca.gov		**Telephone Number:** 916-324-6688	

AUDIT FINDINGS

NARRATIVE:

A PREA audit was conducted at Pelican Bay State Prison (PBSP) January 10-12, 2017. PBSP is located in Crescent City, California, a small community in upper northwest California, 20 miles south of Oregon. Audit team consisted of Vevia Sturm, DOJ Certified Lead Auditor/PREA Coordinator and Dan Redington, DOJ Certified PREA Auditor/Deputy Warden and two support staff, Amy Roderick MDOC Inspector General and Adam Albach and Assistant PREA Coordinator.

The Notice of Audit was posted throughout the facility 6 weeks prior to the scheduled onsite audit. The team did not receive any letters from PBSP offenders prior to the onsite audit however; the lead auditor received one letter on January 17th, which was after the onsite audit. The auditor responded to the offender by mail. The audit team received the Pre Audit Questionnaire (PAQ) on December 8th, 2016, which provided the audit team with ample time to conduct a thorough review of the documentation provided which was completed in an organized and comprehensive manner. The lead auditor corresponded with both the PREA Coordinator as well as the facility's PREA Compliance Manager prior to the audit. A detailed agenda was provided to the PREA Compliance Manager and PREA Coordinator on December 27, 2016.

The audit chair divided the standards by subject matter and assigned specific standards to each member of the team. This allowed for an in-depth document review prior to the audit and for additional record review while on site.

The team arrived at PBSP at 8:30 AM on January 10th, 2017, where we met with the facility's executive staff as well as representatives from CDRC PREA Unit. The meeting allowed for introductions, time to answer questions and outline the agenda for next 3 days. Following the meeting, the audit team began their tour of the facility, which included offender housing units, Segregated Housing Unit, Fire House, Minimum Support Unit, and the stand along segregation unit, Correctional Treatment Center as well as food service, and programming areas.

Due to the size of the facility, the auditors split into teams of two to conduct the facility tour. During the tour, the auditors spoke briefly with both staff and offenders.

Following the tour, the auditors were provided with offender rosters by housing unit, staff rosters which included shift and title; and, lists of specialized staff and offenders. Random offenders from each housing unit and staff from all shift where selected to interview. The team began interviews following the tour and completed interviews on January 12th. The audit team interviewed 34 staff that included 17 random staff, 17 specialized staff and volunteers. The agency head, PREA Coordinator and the agency contract administrator were interviewed during the previous audit. In addition, the team interviewed a total of 21 offenders which included 11 random offenders and 4 specialized offenders. PBSP does not house youthful offenders. At the time of the audit, the facility identified no LBGTI offenders; there had been no offenders housed in segregated housing due to risk

of sexual victimization and there had been no offenders who had disclosed sexual victimization during a risk assessment. During this time, the team also reviewed randomly selected personnel files, investigative files and mental health records.

DESCRIPTION OF FACILITY CHARACTERISTICS

PBSP is located on 275 acres on the northern coast of California, 13 miles from the Oregon border. The institution opened in 1989 to accommodate a need for a growing population of maximum security offenders.

PBSP is designed to house California's most serious criminal offenders in a safe, secure and disciplined environment. PBSP is a level I and IV facility that houses adult male offenders who have been sentenced to state prison by the courts. One half of the prison houses maximum security offenders in a general population setting while the other half houses offenders in a Security Housing Unit (SHU). In addition, the facility operates a 400 bed, level I Minimum Support Facility (MSF). The MSF houses non-violent offenders and is located outside the security fence along with the Firehouse.

The facility was designed to house 3,724 offenders but on the first day of the audit, PBSP housed only 2,455. The PAQ showed PBSP has 1 single cell housing unit, the Psychiatric Services Unit, 40 multiple occupancy cell housing units and 2 open bay dorms, which is the MSF. PBSP has video monitoring capabilities in the administrative segregation unit, on the yards, visiting room, towers and in the main entrance.

The facility's Security Housing Unit (SHU) is designed to maximize control of offenders who pose a definite and serious threat to the safety of others or themselves. The unit is comprised of 22 housing units with 48 cells each. Each housing unit is divided into 6 pods. Each pod has two tiers with four cells on each tier. There is concrete exercise yard adjacent to each pod. At the time of the audit only 10 of the 22 units were in use. Yard A consists of 8, 128-bed general population housing units that include the Administrative Segregation Unit (ASU) overflow and the Short-Term Restricted Housing Program and is equipped with a treatment center to provide medical and mental health services. Yard B consists of 8, 128-bed general population housing units. Seven of the housing units are designated as gender population with the remaining housing unit is designated as the PSU. The Correctional Treatment Center (CTC), which contains 20 cells, which include 10 medical cells and 10 crisis cells.

During the onsite audit, LAC met 33 standards; standard 115.14 Youthful Inmates does not apply.

The following nine standards required corrective action:

115.15 Limits to Cross Gender Viewing and Searches
115.17 Hiring and promotion decisions
115.18 Upgrades to facilities and technologies

115.35 Medical and Mental Health Training
115.41 Screening for risk of victimization and abusiveness
115.42 Use of screening information
115.51 Inmate reporting
115.53 Inmate access to outside confidential support services
115.72 Evidentiary standard for administrative investigations
115.87 Data collection

The PREA Auditors worked with the PREA Coordinator and the facility to develop corrective action plans for each deficient standard. Following the receipt of the initial audit report, PBSP began their corrective action period during which they provided documentation to demonstrate compliance with the standards noted above. Please see the following report for specific action the facility and the state agency took to reach compliance.

SUMMARY OF AUDITO FINDINGS:

Number of standards exceeded:

Number of standards met: 42

Number of standards not met: 0

Number of standards that do not apply: 1

115.11	Zero tolerance of sexual abuse and sexual harassment; PREA Coordinator

☐ Exceeds Standard (substantially exceeds requirement of standard)

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

☐ Does Not Meet Standard (requires corrective action)

☐ Does Not Apply

Auditor comments, including corrective actions needed if does not meet standard

Department Operations Manual (DOM), Chapter 5, Article 44, section 54040 establishes the agency's zero tolerance for sexual violence, staff sexual misconduct and sexual harassment. This policy also dictates that the agency will provide guidelines for prevention, detection, response, investigation and tracking of sexual abuse and harassment.

The agency has a designated employee appointed as the PREA Coordinator who indicates that she has sufficient time and authority to oversee the implementation and ongoing compliance of PREA standards with the agency's facilities. The PREA Coordinator reports to the Associate Director of Female Institutions. The agency has designated PREA Compliance Managers at each of its 35 institutions. The PREA Compliance Managers are responsible to ensure PREA compliance at their respective facility. PBSP's PREA Compliance Manager indicated that he has sufficient time and authority to oversee the facility's efforts towards compliance. The PREA Compliance Manager also oversees the Investigative Services Unit and reports directly to the Warden.

115.12	Contracting with other entities for the confinement of inmates

☐ Exceeds Standard (substantially exceeds requirement of standard)

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

☐ Does Not Meet Standard (requires corrective action)

☐ Does Not Apply

Auditor comments, including corrective actions needed if does not meet standard

CDCR has 9 contracted prisons: Tallahatchie County Correctional Facility, La Palma Correctional Center; Golden State Modified Community Correctional Facility; Desert View Modified Community Correctional Facility; Central Valley Modified Community Correctional Facility; McFarland Female Community Reentry Facility; Shafter Modified Community Correctional Facility; Delano Community Correctional Facility and Taft Modified Community Correctional Facility. Contracts provided to the auditor include the contracted facility's obligation to adopt and comply with PREA standards. The Contracted Bed Unit provides oversight and contract monitoring to all of the above contracts. All contracted facilities have been audited by a DOJ certified PREA auditor. Of the 9 contracted facilities, six are in full compliance and the final PREA audit reports have been posted on the contracted agency's website. The other three facilities are in corrective action.

115.13	Supervision and monitoring

☐ Exceeds Standard (substantially exceeds requirement of standard)

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

☐ Does Not Meet Standard (requires corrective action)

☐ Does Not Apply

Auditor comments, including corrective actions needed if does not meet standard

PBSP's staffing pattern considers all components required by this standard. When determining how staff will be deployed the facility considers the following: physical plant structure, mission of the facility, composition of offender population, along with substantiated and unsubstantiated incidents of sexual abuse. The facility has not had any findings of inadequacy made by federal investigative agencies or internal or external oversight bodies.

PBSP has not deviated from their standardized staffing pattern. CDCR has a computer based program called Telestaff. This program is designed to show the Watch Commander any discrepancies and variations to the staffing pattern. For example, if an officer calls in sick or is on vacation that information is entered into the Telestaff system. The Watch Commanders can then run a report that shows where the vacancies are on a particular shift, which allows the Watch Commander to quickly locate where necessary adjustments should be made for proper supervision.

DOM Chapter 5, Article 44, section 5040.17.1, states the staffing pattern will be reviewed whenever necessary but no less frequently than once a year, in consultation with the Department PREA Coordinator. The staffing plan analysis submitted by PBSP considers all components of subsection (a) of this standard. The facility's deployment of electronic monitoring, and resources used to monitor staffing level are also reviewed in this analysis.

PBSP's intermediate and higher level security staff conduct and document unannounced rounds, as outlined in section 54040.4 of the DOM. The security personnel who conduct the rounds do not alert other staff to when these rounds are occurring. All unannounced rounds are documented in the unit log book. This practice was verified on site by reviewing unit log books. Also, staff interviews supported that security supervisors make frequent unscheduled visits.

115.14	Youthful inmates

☐ Exceeds Standard (substantially exceeds requirement of standard)

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

☐ Does Not Meet Standard (requires corrective action)

XX Does Not Apply

Auditor comments, including corrective actions needed if does not meet standard

CDCR does not house youthful offenders.

115.15	Limits to cross-gender viewing and searches

☐ Exceeds Standard (substantially exceeds requirement of standard)

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

☐ Does Not Meet Standard (requires corrective action)

☐ Does Not Apply

Auditor comments, including corrective actions needed if does not meet standard

DOM Chapter 5, Article 19, Section 52050.16.5 prohibits cross gender visual body cavity searches and states that correctional personnel shall not conduct visual body cavity searches on opposite sex offenders except in exigent circumstances. In addition, should a cross gender visual body search be required during an exigent circumstance, DOM Chapter 5, Article 44, section 54040.5 Searches shows the search must be documented using a Notice of Unusual Occurrence document and reviewed by the staff member's supervisor then routed to the PREA Compliance Manager. The PAQ indicates the facility has not conducted any opposite gender strip searches in the past 12 months. This was supported by interviews with both staff and offenders.

The facility does not house female offenders therefore, 115.15 (b) and (c) does not apply.

DOM Chapter 5, Article 44, Section 54040.4 Preventative Measures, supports (d) of this standard and requires that facilities enable offenders to shower, perform bodily functions and change clothing without non-medical staff of the opposite gender viewing their breast, buttocks, or genitalia except in exigent circumstances. However, during the tour cross gender viewing issues were identified and are detailed below.

In addition, DOM Chapter 5, Article 44, Section 54040.4 Preventative Measures, require staff of the opposite biological gender to announce their presence when entering a housing unit. This announcement is required at the beginning of the shift and/or when the status quo within the housing unit changes. It was observed during the tour and noted during staff and offender interviews the opposite gender announcements were not conducted consistently throughout the housing units. While policy appears to put the responsibility of making the announcement on the female staff person, at PBSP staff reported there are times that the officer in the housing unit control center would make the announcement and that staff have been instructed to say "Staff in the unit" when making the cross gender announcement.

The PREA Resource Center was consulted for guidance regarding the wording of the cross gender announcement and if "staff in the unit" would sufficiently put offenders on alert that a female staff

person was entering the unit. The auditor received a response back from the PRC on January 27, 2017, which states, "…In terms of the "staff on unit" announcement, standard 115.15 requires staff of the *opposite gender* to announce their presence when entering an offender housing unit. Per the following FAQ, the intent of this standard is to put offenders on notice when opposite-gender staff may be viewing them: https://www.prearesourcecenter.org/node/3262. If an announcement is made that does not make clear that a staff person of the opposite gender has entered the unit and may be viewing offenders, I do not think that it would meet the standard."

The auditor was informed by the agency's PREA Coordinator that each facility issues offenders an orientation handbook where offenders are educated on the meaning of "staff in the unit". The agency provided the "Orientation Handbook Attachment" titled "PREA Information for Orientation Handbook" in the documentation submitted prior to the audit which includes the following statement: "In order to minimize cross gender exposure, staff of the opposite biological sex will announce their presence when entering the housing unit by stating "Staff on the Unit".

During the onsite audit, PBSP's intake staff provided the auditors with the offender orientation handbook they provide to offenders on the day they arrive. The orientation handbook shows it was revised "August 2015" and does not contain the "PREA Information for Orientation Handbook" attachment therefore, the handbook does not notify the offenders that "Staff on the Unit" means that staff of the opposite gender is entering the unit.

DOM Chapter 5, Article 19, Section 52050.16.7 outlines the agency's procedure if the offender's genital status is unknown. If staff is unable to determine the genital status of an offender through medical records or an interview with offender, then a standard medical evaluation shall be conducted. Once information is collected and documented, the Institution Classification Committee will determine appropriate classification and housing placement for the offender.

Searches and Inmate Property, Section 5 of the training curriculum, outlines how staff members are to conduct pat searches on transgender offenders. Male offenders who identify as female will be searched with the female search method on the upper body which requires staff to use the back of their hands when searching the chest of the offender. A random review of training records indicated staff received this training and staff was able to verbalize how they would conduct such a search if a transgendered offender was assigned to PBSP.

Below is an overview of cross gender viewing observations made during the facility tour. Please keep in mind the auditors only toured one of each type of housing unit. The corrective action regarding cross gender viewing pertains to all areas of the facility; some areas which require privacy barriers may not be noted in the narrative below.

- Segregated Housing Unit - "Wet cells" allowed for cross gender viewing through door and requires a privacy barrier.
- Minimum Housing Unit – All bathrooms require a privacy barrier to block view of toilet.
- Hobby Shops – holding cages which are periodically used for strip searches need privacy barriers as well as the offender bathroom.

- Receiving and Release - holding cells need privacy barriers to allow for toileting.
- Housing Units - Toilets in each cell can be viewed from the floor of housing unit or from the control room. In many cases the offenders have hung a towel inside the cell to prevent cross gender viewing. Facility must provide privacy barrier.
- Administrative segregation – 16 showers require privacy barriers.
- Yards - Toilets and urinals allow for cross gender viewing.

Correction Action:

- Install privacy barriers to allow offenders to shower, perform bodily functions, and change clothing without non-medical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances.

- Provide pictures of the barriers installed in the areas indicated in the narrative within 180 days.

- PBSP shall implement into practice the opposite gender announcement outlined in the DOM 54040.4 Education and Prevention.

- PBSP must develop a plan to educate offenders on the meaning of "staff in the unit" and ensure all offenders are made aware of the meaning of the announcement.

- PBSP must provide the auditor with documentation demonstrating offenders were educated on the meaning of the announcement.

- PBSP shall provide examples of documentary evidence that the opposite gender announcement has been conducted consistently on all shifts in multiple housing units within 180 days.

Recommendation: It is also recommended that PBSP develop a practice that requires staff to log cross gender announcements.

Corrective Action Period:

During the corrective action period, the facility addressed each cross gender viewing issue noted during the tour and provided pictures to the auditors to demonstrate compliance. Noted below are the actions taken to prevent cross gender viewing at PBSP:

- **Segregated Housing Unit** - "Wet cells" - Black privacy flaps attached to outside of door that provide coverage.
- **Minimum Housing Unit** – Privacy barriers installed for each toilet.
- **Hobby Shops** – privacy barriers attached to the outside of holding cages
- Receiving and Release – Film added to bottom of windows.
- **Housing Units** – PBSP posted memos in the housing units notifying the offender population that to prevent cross gender viewing in housing units with perforated doors, they would be allowed to hand a towel on doors of cells when toileting and changing clothing. The posted memo shows, "This is ONLY PERMITTED when non-medical staff of the opposite gender are in the housing unit."
- Administrative segregation – Film added to bottom portion of shower doors.
- Yards – Privacy barrier added to urinals and toilets located in the yards.

Opposite Gender Announcement:
The facility provided evidence to demonstrate staff received "Opposite Sex Announcement" training that outlined when staff will make the cross gender announcement. PBSP updated the offender PREA Orientation Handbook was updated to include the meaning of the "staff on the floor" announcement and when the announcement will be made. In addition, PBSP provided evidence that a work order was submitted to have signs made that to be posted at the entrances of all housing units to remind staff of the need to make the announcement.

115.16	Inmates with disabilities and inmates who are limited English proficient

☐ Exceeds Standard (substantially exceeds requirement of standard)
XX Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
☐ Does Not Meet Standard (requires corrective action)
☐ Does Not Apply

Auditor comments, including corrective actions needed if does not meet standard

The facility has taken the steps necessary to ensure offenders with disabilities have equal opportunity to participate in and benefit from all aspects of the CDCR's efforts. The agency has a standard agreement with Interpreters Unlimited, Inc. to provide interpreter services to non-English speaking and otherwise developmentally disabled offenders. During the site tour the auditors noted that PREA postings in both English and Spanish throughout the facility. PBSP offers the offender handbook in both English and Spanish and PREA Education video in both English and Spanish is played on the facility's closed circuit network. Agency policy, Title 15 requires assistance to offenders whose, "Test of Basic Education (TABE) score is 4.0 or lower." Employees are required to query the offender to determine whether or not assistance is needed to achieve effective communication.

DOM Chapter 5, Article 44, Section 54040.7 states, "The department shall not rely on offender interpreters, offender readers, or other types of offender assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the offender's safety, the performance of first response duties, or the investigation of the offenders allegations." Interviews show PBSP does not use offender interpreters.

115.17	Hiring and promotion decisions

☐ Exceeds Standard (substantially exceeds requirement of standard)
XX Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
☐ Does Not Meet Standard (requires corrective action)
☐ Does Not Apply

Auditor comments, including corrective actions needed if does not meet standard

DOM Chapter 3, Article 6, Section 31060 Appointments supports (a) of this standard and outlines the agency's protocol for hiring and promotions. Section 31060.3 mandates the hiring authority not hire or promote anyone who may have contact with offenders, who: has engaged in sexual violence or staff sexual misconduct, has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, over or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse, or has been civilly or administratively adjudicated to have engaged in any of the activity mention above.

Subsection (c) of this standard requires the agency to (1) perform a criminal background records check; (2) make its best efforts to contact all prior institutional employers for information on substantiated allegations or resignation during a pending investigation of sexual abuse.

CDCR Office of Peace Officer Selection (OPOS), Background Investigative Unit, conducts a background check on applicants before hiring which includes Live Scan, which is explained below. In addition, applicants are asked to complete a personal history statement in which they are asked directly about past history of sexual abuse as required by 28 CFR 115.27 (f) and list all previous employers. If it is noted that the applicant had previously worked for the CDCR, OPOS makes an effort to determine if the applicant had past discipline or resigned pending an investigation. However, policy does not require the facility/agency to attempt to "contact all prior institutional employers" as defined in 42 U.S.C.1997.

A review of random personnel files and a review of CDCR's employment application for non peace officers shows applicants are not asked to provide a list of all past institutional employers [as defined in 42 U.S.C.1997]. Staff interviews confirmed that non peace officer applicants are not asked to provide the names of all previous employers therefore, all previous employers are not contacted to inquire about substantiated allegations or if the applicant resigned during a pending sexual abuse investigation.

CDCR requires a criminal records check prior to employment. The agency utilizes a method known as Live Scan to obtain the criminal history for potential employees. Each applicant is required to consent to a fingerprint to be submitted to Live Scan, which provides the applicant's previous criminal history and then continues to monitors the employee throughout their employment with CDCR. Should an employee be involved in any criminal matter, Live Scan will immediately alert the appropriate personnel. The agency requires contractors to conduct criminal background checks for each contract employee who will have contact with offenders, and submit written certification that the criminal background check was conducted.

Corrective Action:

- When conducting the background check prior to hiring a Peace Officer, CRCR should make an attempt to contact all previous institutional employers [as defined in 42 U.S.C.1997] to

inquire about substantiated investigations or if the applicant resigned during a pending sexual abuse investigation. This attempt should be documented.

- CDCR should revise their application/policy/practice to require non peace officer applicants to list all previous institutional employers [as defined in 42 U.S.C.1997].

- CDCR should attempt to contact all previous institutional employers [as defined in 42 U.S.C.1997] to inquire about substantiated investigations or if the applicant resigned during a pending sexual abuse investigation. This attempt should be documented.

- Provide auditors with documentation showing the Office of Peace Officer Selection (OPOS), Background Investigative Unit was notified of the change in practice.

- Provide the revised application/policy/practice which requires all past employers to be listed.

- Provide documentation showing an attempt is being made to contact past institutional employers of possible Peace Officer applicants and non Peace Officer applicants.

Corrective Action Plan:

In response to the need for corrective action noted above, CDCR made significant revisions to their hiring processes which are listed below:

Revisions to form 1951, Supplemental Application for all CDCR Employees, Section E, which requires potential employees to list all previous institutional employers. The revised form ask potential employees to "Please list all previous correctional institution employers for whom you have worked. Include any prison, jail, lock-up, community confinement facility, juvenile facility, or other correctional institution/facility, regardless of when you were employed there." In addition, the form requires the applicant to indicate if they has contact with offenders during their employment as each employer listed.

RECOMMENDATION: *The application should also require applicants to list employment in other types of institutional settings. 42 USC 1997 includes all institutions that are owned operated or managed by or provides services on behalf of any state or political subdivision of a state, including institutions that house the mentally ill, disability, or developmentally disabled or chronically ill or handicapped, etc*.

CDCR provided meeting minutes from a conference call held on July 2017 for all personnel officers to ensure they were educated on the changes in processes. During the call, the personnel officers were instructed to ask the following questions with conducting reference checks:

1) While this individual was employed by your institution or facility, were any allegations of sexual abuse investigated and substantiated against him/her?
2) Did this individual resign from his/her employment with your institution prior to completion of an investigation of sexual abuse allegations?

During the call, IPOs were also informed they must attempt to contact all previous institutional employers to inquire about substantiated sexual abuse investigations and resignations during a

pending sexual abuse investigation, when the applicant's position required contact with offenders and to document these attempts.

The Office of Peace Officer Selection (OPOS), which completes the backgrounds checks for all peace officer candidates, revised the CDCR form 1902, Personal History Statement, that custody applicants complete prior to hire. The application now requires the applicants to answer questions required by 115.17 (e). The CDCR form is submit along with the state application.

CDCR updated form 2025, Employment Reference Questionnaire, used to complete the reference checks for potential peace officer candidates. The updates include the following two mandatory questions: 1) While this individual was employed by your institution or facility, were any allegations of sexual abuse investigated and substantiated against him/her; and 2) Did this individual resign from his/her employment with your institution prior to completion of an investigation of sexual abuse allegations.

CDCR distributed a memorandum to all Background Investigators mandating they attempt to contact all previous institutional employers. CDCR provided statewide training regarding the revised hiring practices. CRCR provided sign in sheet were provided to the auditors to demonstrate as proof of training.

115.18	Upgrades to facilities and technologies

☐ Exceeds Standard (substantially exceeds requirement of standard)

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

☐ Does Not Meet Standard (requires corrective action)

☐ Does Not Apply

Auditor comments, including corrective actions needed if does not meet standard

Through a discussion with the Warden it appears PREA is considered when designing upgrades to existing facilities or electronic surveillance systems, including cameras however there is not a written policy or directive in place that indicates that this is mandatory practice.

Corrective Action:

- Add to policy or provide a written directive that shows upgrades or expansions to existing facilities must consider how such upgrades or expansions will affect the agency's ability to protect offenders from sexual abuse.

- Add to policy or provide a written directive that shows when upgrading or adding new monitoring technology facilities must consider how the upgrade or additional system will affect the agency's ability to protect offenders from sexual abuse.

Corrective Action Period:

To demonstrate compliance, CDCR forwarded the approved Design Change Request for which includes the PREA language to be included Design Criteria Guide. The new language states, "When installing or updating a video monitoring system, electronic surveillance system, or other monitoring technology, the department shall consider how such technology may enhance the department's ability to protect inmates from sexual abuse.

115.21	Evidence protocol and forensic medical examinations

☐ Exceeds Standard (substantially exceeds requirement of standard)

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

☐ Does Not Meet Standard (requires corrective action**)**

☐ Does Not Apply

Auditor comments, including corrective actions needed if does not meet standard

DOM Chapter 5, Article 44, Section 54040.8 provides the requirement to preserve potential crime scenes and collect relevant physical evidence to the allegation. The facility has an institutional evidence protocol outlined in a supplemental amendment to the DOM; Chapter 50000, Subchapter 52000, Section 52051 that provides direction for the collection and storage of evidence. The collection of physical evidence from a forensic examination is dictated by the DOM, Section 54040.9; the California Correctional Health Care Services policy Volume 1, Chapter 16; and CA Penal Code 264.2 and 679.04.

Interviews with investigators revealed they were knowledgeable of the uniform evidence collection protocol and educated on evidence collection in their specialized training. Forensic examinations are conducted at Sutter Coast Hospital at no cost to the victim. California Health Care Services policy Chapter 10, Section 1.10 states that a victim will not be charged for treatment relating to sexual abuse or assault.

The facility entered into a memorandum of agreement with North Coast Rape Crisis Team to provide advocacy services for offenders. Investigators were also knowledgeable about advising offenders of their right to advocacy services.

115.22	Policies to ensure referrals of allegations for investigations

☐ Exceeds Standard (substantially exceeds requirement of standard)

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

☐ Does Not Meet Standard (requires corrective action)

☐ Does Not Apply

Auditor comments, including corrective actions needed if does not meet standard

DOM Chapter 5, Article 44, Section 54040.12 requires an administrative or criminal investigation to be conducted on all allegations of offender sexual abuse and sexual harassment. Every allegation is referred to the Investigative Services Unit (ISU) for investigation who has legal authority to conduct criminal investigations. Investigations involving possible staff misconduct are referred to the Office of Internal Affairs (OIA) who reviews the allegation and determine if an internal investigation is warranted; if so, OIA conducts the investigation. Seven allegations were investigated in the last twelve months; all by OIA. Sections (c) and (e) are not applicable as all investigations are conducted by ISU.

115.31	Employee training

☐ Exceeds Standard (substantially exceeds requirement of standard)

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

☐ Does Not Meet Standard (requires corrective action)

☐ Does Not Apply

Auditor comments, including corrective actions needed if does not meet standard

DOM Chapter 5, Article 44, Section 54040.4 states "All staff, including employees, volunteers, and contractors, shall receive instruction related to the prevention, detection, response, and investigation of offender sexual violence, staff sexual misconduct, and sexual harassment. This training will be conducted during new employee orientation, annual block training, and will be included in the curriculum of the Correctional Training Academy. The training will be gender specific based on the offender population at the assigned institution."

The agency provided their training curriculum for review and all of the 10 required components were covered. Staff, when questioned, seemed to have a very good grasp on the specifics of PREA. The training was tailored to the gender of the offenders at the facility (male). Also, the Training Officer indicated that if a staff person transferred from a female facility they would be trained using the current training for a male facility. Staff also receives a yearly online training. Documentation was provided that demonstrated staff had received the required training.

115.32	Volunteer and contractor training

☐ Exceeds Standard (substantially exceeds requirement of standard)

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

☐ Does Not Meet Standard (requires corrective action)

☐ Does Not Apply

Auditor comments, including corrective actions needed if does not meet standard

DOM, Chapter 5, Article 44, Section 54040.4 states, "All staff, including employees, volunteers, and contractors, shall receive instruction related to the prevention, detection, response, and investigation of offender sexual violence, staff sexual misconduct, and sexual harassment. This training will be conducted during new employee orientation, annual block training, and will be included in the curriculum of the Correctional Training Academy. The training will be gender specific based on the offender population at the assigned institution. Participation in the training will be documented."

The agency provided documentation showing that volunteers and contractors had received PREA training which was verified through interviews for both volunteers and contractors. A review of the volunteers and contractor training showed it covered the department's zero–tolerance policy regarding sexual abuse and harassment. The agency provided documentation that the volunteers and contractors signed indicating they had been trained on PREA and understood the training received.

115.33	Inmate Education

☐ Exceeds Standard (substantially exceeds requirement of standard)

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

☐ Does Not Meet Standard (requires corrective action)

☐ Does Not Apply

Auditor comments, including corrective actions needed if does not meet standard

DOM Chapter 5, Article, 44, Section 54040.4 states that offenders shall be provided both verbal and written information which will address prevention/intervention, reporting, and treatment and counseling. Initial offender orientation on PREA will be provided to the offender population in reception centers (RC) via either written or multi-media presentation on a weekly basis in both English and Spanish. Approved PREA posters which contain departmental policy and the sexual violence, staff sexual misconduct, and sexual harassment reporting telephone numbers shall be posted in designated locations throughout the institution and parole offices. At a minimum, these areas shall include all housing units, medical clinics, law libraries, visiting rooms, program offices, and offender work areas. The PREA brochure entitled "Sexual Assault Awareness" and the PREA booklet entitled "Sexual Abuse / Assault – Prevention and Intervention" will be distributed during initial

processing in RC institutions. Both the brochure and booklet shall be available through correctional counselors at each institution, and the information will also be included in each institution's offender orientation handbook. Appropriate provisions shall be made to ensure effective communication for offenders not fluent in English, those with low literacy levels, and those with disabilities.

Through interviews it was determined that offenders are not receiving PREA information during intake. Staff interviewed stated offenders receive a "fish kit" when they are put in the housing unit. Staff stated that the "fish kit" contains the orientation handbook that includes PREA information. When offenders receive the "fish kit" they sign showing it was received. Staff stated they do not provide PREA information verbally in the housing unit. The PREA video is played regularly on the offender information channel.

The agency has offender PREA education available in formats accessibly to all offenders, including those who are limited English proficient, deaf, visually impaired, otherwise disabled, as well as to offenders who have limited reading skills by printing materials in English and Spanish, maintaining agreements with translation services and utilizing bi-lingual staff when appropriate. During the tour it was noted that PREA allegation report information was posted in both English and Spanish in the housing units, work areas as well as other areas accessible to offenders.

Recommendation: It is recommended that offenders receive verbal PREA information upon intake to include the facility's zero tolerance policy, their right to be free from sexual abuse, harassment and retaliation and how to report. In addition, offenders should receive a more comprehensive education within 30 days of intake.

While Section 54040.4 covers PREA education that should occur in the Reception Centers, it does not appear to address offender education that should occur in mainline facilities. It is recommended that the DOM be amended to include language regarding offender education in mainline facilities.

115.34	Specialized training: Investigations

☐ Exceeds Standard (substantially exceeds requirement of standard)

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

☐ Does Not Meet Standard (requires corrective action)

☐ Does Not Apply

Auditor comments, including corrective actions needed if does not meet standard

In addition to the general training provided to all employees pursuant to Standard 115.31, DOM Chapter 5, Article 44, Section 54040.4 states, "All employees who were assigned to investigate sexual violence and/or staff sexual misconduct will receive specialized training per PC Section 13516 (c)." "The Hiring Authority or PREA Compliance Manager (PCM) shall ensure employees investigating incidents of sexual violence and/or staff misconduct are properly trained."

A review of the curriculum showed the training covered all the necessary areas required by this standard. The agency provided a sign in sheet that was signed by investigative staff showing that they had attended the necessary training.

115.35	Specialized training: Medical and mental health care

☐ Exceeds Standard (substantially exceeds requirement of standard)

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

☐ Does Not Meet Standard (requires corrective action)

☐ Does Not Apply

Auditor comments, including corrective actions needed if does not meet standard

DOM Chapter 5, Article 44, Section 54040.4 states " All staff including employees, volunteers and contractors, shall receive instruction related to the prevention, detection, response and investigation of offender sexual violence, staff sexual misconduct and sexual harassment."

Medical and Mental Health staff receive the training required by 115.35 Employee Training which is a 2 hour training that addresses the elements required by this standard as well as the elements required by 115.35. CDCR does not provide specialized medical and mental health training as is required by this standards.

Training staff provided ample documentation to demonstrate that medical and mental health staff received the training required by 115.35 Employee Training. However, medical and mental health staff does not receive "specialized training" targeted to health care professionals as required by this standard. The training requirements listed in this standard should be the basis for the curriculum's content which should train medical and mental health professionals on identifying warning signs and symptoms they should be aware of in their day to day work. Often offenders do not report sexual abuse and facilities must rely on medical and mental health staff to be aware of indicators and signs of possible abuse or harassment, have the skills to talk with victims who are afraid to report and to forward suspicions on to the appropriate staff.

While the facility has not had an allegation that would require a forensic exam they have a protocol in place that would ensure victim would be transported to Sutter Coast Hospital should the need arise.

Corrective Action:

- Develop and provide Specialized Training to medical and mental health staff.
- Provide auditor with the finalized curriculum.

- Provide the auditor with signed acknowledgements showing medical and mental health staff received specialized training.

Corrective Action Period:

During the Corrective Action Period, CDCR developed Specialized training for medical and mental health staff. CDCR provided the training to the auditors for review. The auditors found the training covered all the criteria required by this standard. In addition, PBSP provided the auditors with certificates of completion indicating medical and mental health staff completed the specialized training.

115.41	Screening for risk of victimization and abusiveness

☐ Exceeds Standard (substantially exceeds requirement of standard)

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

☐ Does Not Meet Standard (requires corrective action)

☐ Does Not Apply

Auditor comments, including corrective actions needed if does not meet standard

CCR Title 15, Article 1.6, Subsection 3269. Inmate Housing and DOM Chapter 5, Article 44, Section 54040.6 addresses the components that staff must consider when determining offender housing. Policy shows the initial screener is to be conducted immediately upon the offender's arrival at the institution. A review of the intake screener showed it does not contain all criteria required by subsection (d) of this standard. The initial screener does not take into account whether the offender has prior convictions for sex offenses against an adult or child; whether the offender is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming; the offenders own perception of vulnerability, or whether the offender has been a victim of sexual abuse or had perpetrated sexual abuse that did not occur in a prison setting. In addition, the screener is not objective and does not allow for consistency in classification of all offenders. Risk of victimization or abusiveness for offenders housing placement is at the discretion of the individual conducting the assessment. Staff who conducts the intake assessments incident the only ask offenders about sexual abuse that occurred in a prison setting. One staff reported that he does ask offenders about their feeling of vulnerability, and would make a note of the offender's response but he does not think that everyone that conducts assessments ask the offenders about their feelings of vulnerability.

CCR Title 15, Article 1.6 Inmate Housing, Section 3269.1 Integrated Housing, shows the appropriateness of the offender's housing will be reassessed at the offender's annual review by the Classification Committee. Following the initial intake screener and placement, offenders then meet with the Unit Classification Committee (UCC). The UCC is required to meet with offenders within 14 days however; staff that was interviewed reported the UCC normally meets with offenders within 7 days of intake. The staff reported the UCC committee does not review the criteria listed in this

standard with the offenders. Staff stated the UCC makes a note that PREA mandates were discussed with the offender but in reality, they just ask the offender if he is familiar with PREA and if he has anything he wants to discuss related to PREA.

Staff reported that if an offender reported a past sexual abuse that occurred in prison, the UCC members would ask the offender if he wanted to see mental health but this is not mandated by policy. Staff indicated if an offender reported he had previously perpetrated sexual abuse the UCC would not offer mental health services. It does not appear that the facility has a system in place that adequately captures additional or new information from a variety of sources to reassess offenders with 30 days as required by this standard.

Policy does not specify that an offender can be reassessed when warranted due to referral, request, and incident of sexual abuse or receipt of additional information. Furthermore, policy does not address that offender may not be disciplined for refusing to participate in the intake screener or if they refuse to answer specific questions on the screener.

Corrective Action:

- Develop an intake screener to include the criteria outlined in 115.41 (d) and (e), that objectively assesses offenders for their risk of being sexually abused by other offenders or their risk of being sexually abusive toward other offenders.
- Develop a documented method to reassess offenders within 30 days of intake. This process should capture any changes in risk factors.
- Provide the auditor with documentation showing staff received training on how to conduct the revised intake screener.
- Provide the audit with 5 examples of risk screeners conducted over a 30 days period that demonstrates PBSP has implemented an objective risk screener.
- Provide evidence showing the offenders from the 5 risk screeners above were reassessed within 30 days.

Corrective Action Period:

During the Corrective Action Period, CDCR developed and implemented an objective PREA Screening assessment screener. The screener addresses each variable required by this standard. PBSP implemented this new PREA Screening on August 2, 2017. To demonstrate that the assessment process was implemented, the facility provided the intake report listing the offenders who arrived at the facility on July 31, 2017. Of the offenders who arrived at PBSP on July 31st, the facility provided a random sample of screeners that were conducted on August 2. This demonstrated the [72-hour] assessment was conducted.

To demonstrate compliance with the reassess required by the standard [within 30-days of intake], PBSP provided the Classification Review report for each of the random sample of offenders. The

classification review was conducted on August 4th, only two days after the initial screener. While this meets the wording of the standard, it is not a best practice.

Each of the Classification Review reports provided indicate the offenders were "advised of the Prison Rape Elimination Act" and was asked if they had been a victim of sexual assault since incarceration. In addition, the report indicates that the Screening was reviewed "for the purpose of ensuring placement in appropriate housing and job assignment." Each of the classification review reports contained the same language for each offender.

DOM section 54040.6 was revised to show, ""Offenders will not be disciplined for refusing to answer, or not disclosing complete information related to mental, physical, or developmental disabilities, their sexual orientation, sexual victimization or perception of vulnerability."

Recommendation: *CDCR should develop a more thorough assessment review process. The review should clearly show that offenders are reassessed based on any additional, relevant information received by the facility since the intake process. At the very minimum, "screening staff [should] consult available sources to determine whether any previously unknown triggering event or information has become available and to document such review." The reassessment is not only to determine if the offender was victimized or pressured since intake, but also to determine if there are any other risk factors that may put the offender at higher risk of future victimization. The facility must have a way to capture such risk factors and the committee should to be able to demonstrate how they reviewed those factors.*

In addition, the intent of the assessment review is to allow the offender to acclimate to the prison before reassessment. Two days does not allow an adequate amount of time to acclimate or for additional relevant information to be obtained. It is recommended that the reassessment/review be conducted between, 20 and 30 days from the date of intake.

115.42	Use of screening information

☐ Exceeds Standard (substantially exceeds requirement of standard)

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

☐ Does Not Meet Standard (requires corrective action)

☐ Does Not Apply

Auditor comments, including corrective actions needed if does not meet standard

As outlined in 115.41, the CDCR does not have a risk screener in place to objectively assess offenders for risk of victimization or abusiveness. While it was evident during the audit that the facility makes individualized housing assignments for offenders, the criteria listed in 115.41 does not inform the housing, programming or work assignments therefore, the facility does not meet the elements of subsections (a) and (b) of this standard.

DOM Chapter 6, Article 12, Section 62080.14 Transgender Inmates does not address how the facility will consider all components in subsections (c), (d), (e), and (f) of this standard, nor that the facility will make considerations on a case-by-case basis for transgender offenders. DOM specifically shows male to female transgendered offenders will be housed in male facilities and female to male offenders will be housed in female facilities. The PREA Resource Center's "FAQ" states, "A written policy or actual practice that assigns transgender or intersex inmates to gender-specific facilities, housing units, or programs based solely on their external genital anatomy violates the standard." In addition, the FAQ shows, "A policy must give "serious consideration" to transgender or intersex inmates own views with respect to safety." DOM 62080.14 does not show the facility must consider the offender's own views of their safety before placing the offender in an institution based on genital status.

Corrective Action:

- Develop a policy to utilize the results of the objective risk screener required by 115.41 to make informed decisions on housing, bed, work, education, and program assignments that will minimize interactions between offenders who are at high risk of victimization and offenders who are at high risk of being sexually abusive.

- Provide the auditor with a memo outlining how the objective screener is being utilized to inform housing, programming and work assignment.

- Provide documentation demonstrating the objective screener is being utilized to inform placement.

- Provide the auditor with the plan to ensure transgendered and intersex offenders' placement and programming assignments are reassessed twice a year which considers the offenders own views with respect to his or her safety and that placement decisions are made on a case-by-case basis.

Corrective Action Period:

As noted in standard 115.41, the facility has implemented an objective screening instrument. The Classification Committee reviews the screener with the offender during the initial meeting. In addition, the Committee reviews all the information in the electronic system to determine housing, programs, education, and work assignments.

CDCR's DOM Section 54040.4 was revised to comply with 115.42 by including, ""Per 28 CFR, Standard §115.42, upon request, transgender and intersex inmates shall be given the opportunity to shower separately from other inmates."

To ensure that transgendered and intersex offenders' placement and program assignments are assessed and reviewed for threats to their safety every 6 month, CDCR issued a memorandum to the Associate Directors, Division of Adult Institutions Wardens, PREA Compliance Managers and the Classification and Parole Representatives. The subject of the memorandum is "Transgender Biannual Reassessment for Safety in Placement and Programming" and states that on a biannual basis, the

PREA compliance managers will receive a list of identified transgender and intersex offenders. The list will include the month each transgender offender incarcerated within CDCR is scheduled for their next annual classification review. During this biannual review, Correctional Counselors will ask the offender about any threats they have received and shall review the offender's case factors in the Strategic Offender Manager System (SOMS) and the Electronic Records Management System (ERMS) for additional information to assess placement and programming concerns. The Correctional Counselor will document the review in the Classification Committee Chrono.

PBSP provided the "Transgender Inmates by Annual Review Month" report dated August 7, 2017, which indicates that PBSP housed no transgender offenders after the annual review process was implemented.

115.43	Protective custody

☐ Exceeds Standard (substantially exceeds requirement of standard)

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

☐ Does Not Meet Standard (requires corrective action)

☐ Does Not Apply

Auditor comments, including corrective actions needed if does not meet standard

DOM Chapter 5, Article 44, Section 54040.6 requires that offenders assessed at high risk for sexual victimization not be place in segregated housing unless an assessment of all available alternatives has been completed. The policy continues to show, that offenders at high risk for sexual victimization shall have a housing assessment completed immediately or within 24 hours of placement into segregated housing. Interviews with staff who supervise offenders in segregated housing confirmed that an offender would be placed in segregated housing as a last resort.

Effective October 20, 2016, CDCR amended CCR Article 7, 3335 Administrative Segregation to now require that victims placed in non disciplinary segregated housing be afforded programs, privileges and education. However, if the facility is unable to afford privileges the regulation requires appropriate documentation as required by this standard. In addition, the amended regulation requires the victim only be held in segregated housing until an alternative means of separation can be arranged which shall not ordinarily exceed a period of 30 days. If segregated housing continues past 30 days, the regulation requires the reason for the extended period of segregation to be documented on the classification chronological log.

PBSP reports they have not had an offender placed in segregated housing due to high risk of sexual victimization within the last 12 months.

115.51	Inmate reporting

☐ Exceeds Standard (substantially exceeds requirement of standard)

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

☐ Does Not Meet Standard (requires corrective action)

☐ Does Not Apply

Auditor comments, including corrective actions needed if does not meet standard

DOM Chapter 5, Article 44, Section 54040.7 addresses how offenders may report allegations of sexual abuse and sexual harassment. The DOM shows offenders can report internally both verbally and in writing which includes reporting through the appeals process, by calling or writing the Office of Internal Affairs, or by third party report.

The agency's external reporting method is through the Office of the Inspector General (OIG). Offenders may either write or call the OIG Ombudsperson. Offenders are informed of the multiple ways to report through the Orientation Handbook and posters.

The agency/facility does not inform offenders how they can make an anonymous report. The auditors were informed that offenders may ask to remain anonymous when writing or calling the OIG Ombudsperson and the OIG will honor the offender's request, however, nowhere in policy or offender education are the offenders informed of this. Offenders in segregation do not have regular access to a phone to allow them to make an anonymous report to the OIG nor do they have a way to report anonymously by written correspondence. Offenders housed in a segregation unit must hand their mail directly to staff for inspection prior to the mail being processed. In doing so, the staff immediately has knowledge of where the mail came from and the intended recipient. This practice does not meet the standard. The intent of the standard is for the offender to feel safe and remain anonymous when reporting. Offenders cannot maintain anonymity by handing a piece of mail addressed to the OIG to an officer.

Corrective Action:

- PBSP shall develop a method for offenders in segregation to report allegations of sexual abuse and harassment while remaining anonymous and develop a protocol for informing offenders in segregation how to make an anonymous report of sexual abuse and harassment.
- PBSP to provide the auditor with plan to allow anonymous reporting for offenders in segregated housing and documentation showing offenders are being notified of how to make anonymous reports when housed in segregation.
- PBSP shall inform offenders in general population of the avenue to anonymously report sexual abuse and harassment.
- PBSP shall provide the auditor with documentation that demonstrates offenders in general population are made aware of how to make anonymous reports.

Corrective Action Period:

CDCR updated the PREA pamphlet and Orientation Handbook. The PREA Orientation Handbook now contains the following statement, "You can remain anonymous upon request when reporting to the OIG. Mail to the OIB will be process as legal mail." The pamphlet contains the statement, "The OIG will keep your name anonymous upon request."

PBSP Operational Procedure No: 220 was updated to show that upon entrance into a segregated housing offenders will be provided the ASU/STRH Orientation Handbook (Attachment F). While the auditor was unable to find where the Orientation Handbook provided information on making an anonymous reports, PBSP also provided the auditor with additional documents which PBSP reportedly now provides offenders when they enter segregated housing to include the revised PREA Pamphlet and the "PREA Information for Orientation Handbook". Both of which inform offenders how to make an anonymous report.

Recommendation: *It is recommended that the ASU/STRH Orientation Handbook be updated to include how offenders can make an anonymous report while assigned to segregated housing and the handbook inform offenders that letters addressed to the OIG will be handled as legal mail.*

115.52	Exhaustion of administrative remedies

☐ Exceeds Standard (substantially exceeds requirement of standard)

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

☐ Does Not Meet Standard (requires corrective action)

☐ Does Not Apply

Auditor comments, including corrective actions needed if does not meet standard

CCR Article 15 Subsection 3084. Appeals, addresses the components of this standard. CDCR does not impose a time limit on when an offender may submit a grievance regarding sexual abuse. The agency allows for third parties reports on behalf of an offender. Offenders do not have to submit an appeal to the individual who is the subject of the complaint. The facility provides mailboxes in each housing unit for offender grievances. Grievances are collected by the appeals office on a daily basis.

Subsection 3084.9 states that all allegations pertaining to sexual violence or staff sexual misconduct shall be processed as an emergency appeal. The appeals office screens complaints each day. When an Appeal regarding sexual abuse is received; it is immediately processed and given to the facility's Appeals Coordinator. The Appeals Coordinator reviews and immediately takes whatever corrective action is needed. The offender receives notice of the action being taken within 5 days. During the onsite audit, 5 grievances alleging sexual abuse were reviewed and verified that PBSP's process meets the requirements of this standard.

During the onsite audit the Appeals Coordinator explained that complaints fall into 2 categories, Adult Institutions or Health Care Services. There is a designated office for Health Care Appeals that operates under the CEO of Health Care, and there is the Appeals Coordinator's Office that responds to complaints that operates under the Warden. When a complaint is submitted by an offender it is screened to determine what division processes the complaint. From there the appropriate office determines the appropriate subcategory for the complaint. The grievance system is an electronic system that provides a response based on the category/sub category that the grievance falls into. This is done to provide consistency in the answers provided to offenders. The Appeals Coordinator has the authority to modify the response to fit the individual complaint, should they deem appropriate.

Through interviews with staff in both appeals office and in reviewing the grievances submitted, it was founded that 5 day responses provided from the Health Care Appeals Coordinator were not modified to advise the complainant of what specific action the facility was taking to address the complaint. The Appeals Office, which operates under the Warden, advises the offender of the action being taken in their response, to whom the allegation was forwarded and whether an investigation was being opened.

DOM Chapter 5, Article 44, Section 54040.15.1 allows the agency to take disciplinary action for filling a grievance that the agency can demonstrate was made in bad faith.

Recommendation: Responses provided to offenders by Health Care Services Appeals Coordinator should also incorporate language that notifies the complainant of what action is being taken regarding that specific allegation.

115.53	Inmate access to outside confidential support services

☐ Exceeds Standard (substantially exceeds requirement of standard)

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

☐ Does Not Meet Standard (requires corrective action)

☐ Does Not Apply

Auditor comments, including corrective actions needed if does not meet standard

DOM Chapter 5, Article 44, Section 54040.8.2 states that a Memorandum of Understanding (MOU) between the institution and a local rape crisis center shall be established. PBSP has an agreement with North Coast Rape Crisis Team to provide support services in incidents regarding sexual abuse.

The PREA Unit stated PBSP has a poster that notifies offenders of the address and phone number of North Coast Rape Crisis Center, however, the auditors did not observe the poster available to the offenders during the tour.

Neither documentation provided prior to the audit nor the offender handbook that PBSP staff provided to the auditor contained the address or telephone number for the local advocate or a national advocate service.

The agency's Sexual Violence Awareness brochure contains the address for Just Detention International, however the auditors could not verify if or when this was being provided to offenders at PBSP.

The agency's Sexual Abuse/Assault Prevention and Intervention booklet provided by the agency prior to the audit also contained the address for Just Detention International. However, the handbook that staff reported that they provide to offenders did not contain the up-to-date version of the booklet with the address for Just Detention.

In addition, the orientation handbook shows, "In certain circumstances, you have the right to a support person and a victim's advocate. Ask the medical staff if your circumstances meet the criteria." All alleged victims of sexual abuse, whether the abuse occurred within a facility or prior to incarceration, should have access to advocacy as required by the standard.

The facility provided a copy of their MOU with North Coast Rape Crisis Team. The MOU shows the facility will provide the address and telephone number to the offenders via departmental approved written materials. The MOU shows written correspondence between the offender and advocacy center will be treated as confidential written correspondence. In addition, the MOU shows phone calls to the advocacy center will be "non-confidential" when utilizing the offender phone system.

The auditors could not identify how PBSP continuously or regularly made the address and phone number the North Coast Rape Crisis Team available to the offender population In addition, the auditors have not found where the offender were notified of their limits to confidentiality when communicating in written correspondence or by phone.

Corrective Action:

- Provide addresses and phone numbers to offenders who they may contact for emotional support services.
- Notify offenders of the limits to confidentiality when communicating with advocates by phone or in written communication.
- Revise the offender handbook and any other offender materials that indicate that offenders only have the right to an advocate in certain circumstances.
- Provide auditor with the facility plan to educate offenders regarding the availability of advocacy services.

Corrective Action Period:
CDCR provided a victim advocacy poster that notifies the offenders of a local address and phone number they can utilize to obtain support services related to sexual abuse. The poster advises offenders to note on the envelope "Evid. Code 1035.4 Privileged Communication" which will ensure confidentiality. The PREA Orientation Handbook includes the following statement that advises the offenders of their limits to confidentiality "Be advised all telephone calls form the inmate telephone system are recorded. If a PREA Allegation is identified through the inmate telephone system, it will be referred to appropriate staff for inquiry or investigation, as appropriate."

115.54	Third-party reporting

☐ Exceeds Standard (substantially exceeds requirement of standard)
XX Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
☐ Does Not Meet Standard (requires corrective action)
☐ Does Not Apply

Auditor comments, including corrective actions needed if does not meet standard

CDCR has several third party reporting options available on the agency's website which include calling or writing the facility where the offender is housed, the Office of Internal Affairs or the PREA Ombudsperson in the Office of the Inspector General.

115.61	Staff and agency reporting duties

☐ Exceeds Standard (substantially exceeds requirement of standard)
XX Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
☐ Does Not Meet Standard (requires corrective action)
☐ Does Not Apply

Auditor comments, including corrective actions needed if does not meet standard

DOM Chapter 5, Article 44, Section 54040.7 supports this standard. The DOM shows all staff is responsible for reporting immediately and confidentially to the appropriate supervisor any information that indicates an offender is being sexual abused or sexual harassed. Agency policy allows for offenders to report an allegation of sexual abuse and sexual harassment to any staff member.

California Correctional Health Care Services policy requires medical and mental health professionals to report all allegations of sexual abuse and sexual harassment. The policy shows that upon receiving an allegation from an offender, health care professionals are to immediately notify the Watch Commander and Investigative Services Unit.

Interviews with all staff supported that they understood their responsibility and how to report allegations of sexual abuse and harassment.

115.62	Agency protection duties

☐ Exceeds Standard (substantially exceeds requirement of standard)

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

☐ Does Not Meet Standard (requires corrective action)

☐ Does Not Apply

Auditor comments, including corrective actions needed if does not meet standard

DOM Chapter 5, Article 44 Section 54040.7 addresses the elements of this standard. Policy states all staff members are responsible for reporting immediately and confidentially, to the appropriate supervisor any information that indicates an offender is being or has been the victim of sexual violence. Interviews with custody officers and administrators indicated staff would take appropriate action should they receive information an offender is at imminent risk. During the 12 months prior to the audit, the facility identified no offenders who were at risk of imminent sexual abuse.

115.63	Reporting to other confinement facilities

☐ Exceeds Standard (substantially exceeds requirement of standard)

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

☐ Does Not Meet Standard (requires corrective action)

☐ Does Not Apply

Auditor comments, including corrective actions needed if does not meet standard

DOM Chapter 5, Article 44, Section 54040.7.4 outlines the process facilities must follow should they receive a report from an offender that he was subjected to sexual abuse or harassed at a previous facility. DOM shows it is the responsibility of the hiring authority to notify the hiring authority of the institution where the event occurred and that the notification should occur as soon as possible but no later than 72 hours.

In the 12 months prior to the audit PBSP had received 1 report from an offender alleging they were sexually abused while confined at another facility. PBSP provided documentation showing they notified the other institution within the designated time frame. ISU staff advised when an allegation is received that occurred at another facility, the ISU of the facility where the allegation was reported

contacts the facility where the alleged event occurred. ISU indicated they make contact by both phone and email.

During the onsite audit, an offender reported an incident that occurred at another facility, and the ISU notified the corresponding institution the day the allegation was received.

115.64	Staff first responder duties

☐ Exceeds Standard (substantially exceeds requirement of standard)

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

☐ Does Not Meet Standard (requires corrective action)

☐ Does Not Apply

Auditor comments, including corrective actions needed if does not meet standard

DOM Chapter 5, Article 44, Sections 54040.8.1 and 54040.11 and the Initial Contact Guide requires the first responder to separate the alleged victim and abuser; preserve and protect any crime scene; and request the victim and abuser to not take any actions that could destroy potential evidence. During a review of investigative files, documentation was present to support that first responders followed the protocol to allow for the collection of evidence. It was evident that random staff understood their responsibility as a first responder during interviews. All staff interviewed also possessed a card that was kept on their person to use as a reference if needed.

115.65	Coordinated response

☐ Exceeds Standard (substantially exceeds requirement of standard)

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

☐ Does Not Meet Standard (requires corrective action)

☐ Does Not Apply

Auditor comments, including corrective actions needed if does not meet standard

DOM Chapter 5, Article 44, Sections 54040.8, 54040.8.1, 54040.2, 54040.8.3, 54040.9, 54040.10, 54040.11 explain the expectations for first responders, custody supervisors, crime scene preservation, victim advocates, medical services, forensic examinations, mental health and suspect processing for allegations of sexual abuse. In conjunction with the DOM, the Initial Contact Guide, Watch Commander Notification Checklist, Custody Supervisor Checklist, Transportation Guide and Sexual Assault Interview Questions provide guidance to those responding to the allegation. The Watch

Commander Notification Checklist and Custody Supervisor Checklist document notifications to institution staff, which includes locally designated investigators; headquarters staff; outside hospital; and additional notifications if required, such as a minor victim. In review of investigative files, all checklists and guides were present noting such notifications and response. During interviews with investigative staff, it was clear the facility possesses a strong notification and response process.

115.66	Preservation of ability to protect inmates from contact with abusers

☐ Exceeds Standard (substantially exceeds requirement of standard)

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

☐ Does Not Meet Standard (requires corrective action)

☐ Does Not Apply

Auditor comments, including corrective actions needed if does not meet standard

The agreement between the State of California and the California Correctional Peace Officers Association, effective July 3, 2015 through July 2, 2018, does not limit the agency's ability to remove alleged staff sexual abusers from contact with offenders pending an investigation or a determination of whether and to what extent discipline is warranted.

115.67	Agency protection against retaliation

☐ Exceeds Standard (substantially exceeds requirement of standard)

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

☐ Does Not Meet Standard (requires corrective action)

☐ Does Not Apply

Auditor comments, including corrective actions needed if does not meet standard

DOM Chapter 5, Article 44, Section 54040.1 states retaliatory measures against employees or offenders who report allegations of sexual violence, sexual misconduct or sexual harassment as well as retaliatory measures against those that cooperate in an investigation for such allegations will not be tolerated and will be subject disciplinary action and/or criminal prosecution. Section 54040.13 requires the PREA Compliance Manager to assign a supervisory staff member to monitor, for 90 days after the allegation, the conduct and treatment of offenders and employees who reported the allegation to ensure no retaliation measures were taken.

At PBSP, the locally designated investigator has been assigned the duty to conduct monitoring for retaliation. In a review of investigative files, face-to-face meetings were conducted by the investigator with the victim in the seven cases investigated. The dates of the meetings are documented on the Protection Against Retaliation (PAR) forms, one specifically for offenders and one for staff. The forms contain a checklist of areas to review for retaliation actions. The checklist includes housing or facility changes; removal from contact with others; emotional support; disciplinary reports; work reports/assignments; and other items as discovered. These forms were in the investigative files but not much detail was noted from the meetings with the offender victims. It was noted that retaliation monitoring was occurring on unfounded investigations and was occurring beyond the 90 days of an allegation.

RECOMMENDATIONS: More detailed documentation should be included on the PAR. Even if no changes occurred since the last meeting, documenting the conversation between the investigator and offender could be helpful.

Investigators assigned to conduct an investigation are also monitoring those involved in the investigation. This could cause the one being monitored to not be truthful or uncooperative with the monitoring investigator based on the process and/or results of the investigation. The facility may want to review this process and consider assigning a monitor that is not intimately involved with the investigation.

115.68	Post-allegation protective custody

☐ Exceeds Standard (substantially exceeds requirement of standard)

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

☐ Does Not Meet Standard (requires corrective action)

☐ Does Not Apply

Auditor comments, including corrective actions needed if does not meet standard

CCR, Title 15, Chapter 4, Section 3335 states victims of sexual abuse shall be assigned to non-disciplinary segregation only until an alternative means of housing assignment is found, and not to "ordinarily" exceed 30 days. However, every 30 days, the facility shall review the assignment to determine whether there is a continuing need for segregation. PBSP did not place any victims into protective custody segregation within the last 12 months; therefore, no 30 day review documentation exists.

115.71	Criminal and administrative agency investigations

☐ Exceeds Standard (substantially exceeds requirement of standard)

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

☐ Does Not Meet Standard (requires corrective action)

☐ Does Not Apply

Auditor comments, including corrective actions needed if does not meet standard

115.71(a) DOM Chapter 3, Article 14, Section 31140.6 delegates the authority to initiate and conduct investigations for the Office of Internal Affairs and Sections 31140.16, 31140.17, 31140.20, and 31140.21 define the process for requesting and the assignment of criminal and administrative investigations related to employees. Sections 31140.30-31140.39 guide investigators through the process.

DOM Chapter 5, Article 44, Section 54040.1 states that CDCR is committed to the education/prevention, detection, response, investigation and tracking of offender sexual abuse and harassment. Contained in Section 54040.11 states all allegations for offender-on-offender sexual violence and sexual harassment shall be investigated by the locally designated investigators.

Investigators employed by CDCR are recognized peace officers; therefore, the agency conducts its own investigations. There is no defined timeframe for the completion of investigations for PBSP.

(b) Investigators receive specialized training as defined in 115.34. However, the training does not include preponderance of evidence or definitions of findings of an investigation.

(c) DOM Chapter 5, Article 44, Section 54040.8.1 provides guidance to the custody supervisor about collecting potential evidence related to DNA and physical evidence from the scene, victim offender and suspected perpetrator. Policy does not include evidence collection related to electronic monitoring, interviews, prior complaints and reports of sexual abuse involving the suspected perpetrator. However, the Specialized PREA Investigator Training includes, in the section related to the collection of evidence, evidence can also be interviews, video footage, mail, log books, and phone records.

(d) DOM Chapter 3, Article 23, Section 52080.6 states that all conduct that constitutes a crime shall be referred to the local district attorney. PBSP has a Memorandum of Understanding (MOU) with the Del Norte County District Attorney that outlines criminal prosecution referral standards; PBSP investigators consult with the district attorney during the course of criminal investigations.

(e) DOM Chapter 5, Article 44, Section 54040.11 states the credibility of an alleged victim, suspect, or witness must be determined based on sound facts and evidence rather than an individual's status. Nothing in policy discussed the use of polygraphs but during interviews with investigative staff it was

reported PBSP investigators do not use truth telling examinations (polygraphs or certified voice stress analysis) during the investigative process.

(f) Administrative investigations are documented in a written report; however, the content of the investigative report was lacking in information such as efforts to determine if staff actions or failures contributed to the abuse.

(g) Criminal investigations are documented in a written report; however, all investigative efforts are not documented. Seven investigative files were reviewed and each contained an investigative report that included supporting documentation obtained during the investigative process and subsequent to the investigation.

(h) DOM Chapter 5, Article 23, Section 52080.6 requires submission to the local district attorney when there is evidence substantiating the elements of a crime.

(i)DOM Chapter 5, Article 44, Section 54040.20 updated revision (as of 1/6/17) requires the investigative file is to be retained by the Investigative Services Unit (ISU) for a minimum of 10 years or for as long as the alleged abuser is incarcerated or employed by the agency, plus five years, whichever is longer.

During interviews with investigative staff, investigators communicated they initiate an investigation related to sexual violence or sexual harassment as soon as they are notified of the allegation. The timeline for completing investigations was on a case- by-case basis and pending lab work when evidence is sent to the crime lab.

During the initial interview with the victim offender, the investigator explains the role of the victim advocate and then allows the advocate to meet with the offender to further explain their role and offer their services. According to investigative staff this is documented in the investigative report; however, this information was not included in any report reviewed related to sexual abuse.

Investigators reported they investigate all allegations to include allegations received from third party or anonymous sources; however, there seemed to be confusion on what was considered anonymous vs. confidential. Investigative staff communicated that they review prior complaints, history of both victim offender and alleged perpetrator but do not document their efforts in the investigative report.

During interviews with investigative staff, it was reported that the investigations are completed even when the alleged abuser or victim departs from the agency or control of the facility.

PBSP investigators conduct all investigations; therefore, section (l) is not applicable.

115.72	Evidentiary standard for administrative investigations

☐ Exceeds Standard (substantially exceeds requirement of standard)

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

☐ Does Not Meet Standard (requires corrective action)

☐ Does Not Apply

Auditor comments, including corrective actions needed if does not meet standard

There is nothing in policy indicating the agency shall impose no standard higher than preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated. Preponderance of evidence is not evident in the Specialized PREA Training for Local Designated Investigators. DOM Chapter 3, Article 22, Section 33030.13.1 defines the investigative finding for Not Sustained as "the investigation failed to disclose a preponderance of the evidence to prove or disprove the allegation made in the complaint" and the definition for Sustained as "the investigation disclosed a preponderance of evidence to prove that allegation(s) made in the complaint". These definitions only relates to investigations of employees.

It should be noted in DOM Chapter 5, Article 23, Section 52080.9.3 states "a finding of guilty shall be based upon a determination by the person(s) conducting the hearing that a preponderance of evidence submitted at the hearing substantiates the charge". This relates to the issuance of internal sanctions for offender behavior and not necessarily for investigations of offender sexual abuse and harassment.

During interviews with investigative staff, it was clear they understood what preponderance of the evidence was and considered it during the investigative process when making a finding. Investigative staff reported supervisors such at Lieutenants attended training that included preponderance of evidence but local designated investigators were not specifically trained on this topic.

Corrective Action:

- DOM should be revised to clearly show no standard higher than preponderance of evidence will be used to substantiate offender-on-offender investigations.
- Facility should provide the auditor with the revised DOM or pending DOM revision, a directive to hiring authorities and investigators signed by the director outlining preponderance of evidence.
- Investigative staff and Hiring Authorities must receive training on determining findings of offender-on-offender investigations based on preponderance of evidence.
- Agency to provide documentation of training to the auditor within the next 180 days.
- Provide investigations showing preponderance of evidence was utilized when determining the finding on a PREA investigation completed within the next 180 days.

Corrective Action Period:

CDCR revised the DOM 54040.12 Investigations policy by adding the following, "No standard higher than a preponderance of the evidence is to be used when determining whether allegations of sexual abuse or sexual harassment are substantiated."

PBSP provided documentation demonstrating the investigative staff and the Warden received training regarding preponderance of evidence and the expectation that preponderance of evidence be considered when determining the finding of an investigation.

PBSP has not had a PREA investigation since the implementation of the corrective action that utilized preponderance of evidence.

115.73	Reporting to inmates

☐ Exceeds Standard (substantially exceeds requirement of standard)

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

☐ Does Not Meet Standard (requires corrective action)

☐ Does Not Apply

Auditor comments, including corrective actions needed if does not meet standard

DOM Chapter 5, Article 44, Section 54040.12.5 requires the institution to provide written notification of the findings to an offender who is alleged to have suffered sexual abuse following an investigation whether the sexual abuse is alleged to have been perpetrated by a staff member or another offender. If the alleged perpetrator is a staff member, policy requires the facility to notify the offender when the staff member is no longer posted within the offender's housing unit; the staff member is no longer employed at the facility and if the staff member is indicted or convicted on a charge related to the sexual abuse. In addition, if the alleged perpetrator is an offender, policy requires the facility to notify the offender if the perpetrator is indicted on the alleged sexual abuse or convicted on a charge related to the sexual abuse.

During the review of investigative files, copies of such notifications are kept in the investigative file; however, there is no acknowledgment by the victim offender of receiving the notification.

RECOMMENDATION: An acknowledgement signature by the victim offender would provide the facility with documentation the offender received the notification of the outcome of the investigation.

115.76	Disciplinary sanctions for staff

☐ Exceeds Standard (substantially exceeds requirement of standard)

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

☐ Does Not Meet Standard (requires corrective action)

☐ Does Not Apply

Auditor comments, including corrective actions needed if does not meet standard

CCR Title 15, Division 3, Section 3401.5 defines Staff Sexual Misconduct and shows that all allegations of sexual misconduct are subject to investigation which may lead to disciplinary action and/or criminal prosecution. CDCR DOM Chapter 5, Article 22, Section 33030.16 Employee Disciplinary Matrix Penalty Levels outlines the specific disciplinary action associated with staff misconduct. The matrix includes staff sexual misconduct and harassment and shows the allowable discipline ranges from an official reprimand to dismissal. Section 33030.17 shows preponderance is necessary before any disciplinary action can be taken against an employee and 33030.19 Employee Disciplinary Matrix is the foundation for all disciplinary action imposed by the agency and is utilized by the hiring authority to determine the penalty imposed for employee misconduct. The Matrix clearly shows the penalty for "Sexual misconduct with an offender(s)/parolee(s) is dismissal. Penalties for other violations of agency policies relating to sexual abuse and harassment other than engaging in sexual abuse are commensurate with the nature of the event. Policy as well as staff interviews confirm that criminally substantiated staff sexual misconduct investigations are forwarded for prosecution. DOM Chapter 5, Article 44, Section 54040.12.3 requires that all dismissals for violation of the agency's sexual misconduct and harassment policies or resignations by staff who would have been dismissed be reported relevant licensing bodies.

In the past 12 months, PBSP has had no staff that have been terminated, resigned prior to termination or who was disciplined for violating agency sexual abuse or sexual harassment policies.

115.77	Corrective action for contractors and volunteers

☐ Exceeds Standard (substantially exceeds requirement of standard)

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

☐ Does Not Meet Standard (requires corrective action)

☐ Does Not Apply

Auditor comments, including corrective actions needed if does not meet standard

The agency has policy in place, 54040.12.4 Reporting to Outside Agencies for Contractors, that would prohibit volunteers or contractors from having further contact with offenders should they be found guilty of having sex with an offender and they will be reported to law enforcement and any licensing body that the individual may be licensed with as part of their job duties. This policy would also prohibit volunteers or contractors from having further contact with offenders should they be found guilty of engaging in other prohibited sexual misconduct with an offender.

In the past 12 months, PBSP has had no allegations of contractors or volunteers violating the agency's sexual abuse or sexual harassment policies.

115.78	Disciplinary sanctions for inmates

☐ Exceeds Standard (substantially exceeds requirement of standard)

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

☐ Does Not Meet Standard (requires corrective action)

☐ Does Not Apply

Auditor comments, including corrective actions needed if does not meet standard

DOM Chapter 5, Article 44, Section 54040.15 Disciplinary Process shows, "Upon completion of the investigative process, the existing disciplinary process, which includes referral for criminal prosecution and classification determination, shall be followed." CCR Title 15, 3316, and 3323 supports this standard and shows offenders are subject to disciplinary sanctions following an administrative or criminal finding of guilt. During interviews it was learned that all investigations into allegations of offender-on-offender sexual abuse must be forwarded to the District Attorney.

In the past 12 months PBSP has had no substantiated investigations of offender-on-offender sexual abuse. Therefore, no disciplinary action has been taken. This standard requires that prior to issuing a sanction following a substantiated investigation of offender-on-offender sexual abuse, the facility must consider whether an offender's mental disabilities or mental illness contributed to his behavior. While the facility has not had a substantiated investigation in the last 12 months, they do not have a process for obtaining and documenting that the offender's mental health or mental disabilities were considered prior to determining sanctions.

DOM Chapter 5, Article 44, Section 54040.15.1 shows the facility can issue a charge of "making a false report of a crime" only if the evidence received indicates the offender knowingly made a false report.

While the agency does provide condoms to offenders in an effort to reduce sexually infectious diseases, CCR Title 15 Section 3007 indicates that consensual sexual contact between two offenders is considered "illegal sexual acts."

Recommendation: It would benefit the facility if there was a process for the hearing official to obtain information regarding the alleged perpetrator's mental health or mental disabilities that may have contributed to the offender's behavior; document that the information was received; and utilize the information received when considered when determining sanctions.

115.81	Medical and mental health screening; history of sexual abuse

☐ Exceeds Standard (substantially exceeds requirement of standard)

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

☐ Does Not Meet Standard (requires corrective action)

☐ Does Not Apply

Auditor comments, including corrective actions needed if does not meet standard

This standard requires that an offender be offered a follow up appointment with medical or mental health if the intake screening pursuant to 28 CFR, Part 115.41 indicates that an offender has been the victim of sexual abuse or has previously perpetrated sexual abuse in an institutional setting or in the community.

DOM Chapter 5, Article 44 Section 54040.7: Referral for Mental Health Screening supports this standard and shows, if a history of sexual victimization or abusiveness is "reported by an offender" during the initial intake screening, whether it occurred in an institutional setting or in the community, the offender should be referred to mental health.

Staff interviewed that complete the housing assessment at intake reported they only ask offenders about victimization that occurred in an institutional setting. In addition, a review of the initial screening tool showed the screening only included the question regarding sexual abuse that occurred in an institutional setting. The assessment does not ask offenders about their history of perpetration.

Staff that conducts the Unit Classification Committee, the entity tasked with conducting reassessment of offenders following intake, stated they would offer a mental health referral if an offender reported that he was previously victimized in a prison setting and then contact investigations. If the allegation had already investigated he would ask the offender if he felt safe and probably ask if they would like to visit with mental health but added this is not mandated by policy. He stated he would not offer a perpetrator mental health services.

Health Care Services, Chapter 3: Medial Services C. *Referrals to Mental Health* indicates that an offender can be referred to mental health services at anytime a staff member has concerns about an offender's mental health stability. The policy continues by listing specific instances where an offender should be referred for a mental health assessment which includes "An inmate has been identified as a

possible victim per the PREA Rape Elimination Act." The policy shows offenders will be assessed by mental health within 7 days of the referral.

115.82	Access to emergency medical and mental health services

☐ Exceeds Standard (substantially exceeds requirement of standard)

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

☐ Does Not Meet Standard (requires corrective action)

☐ Does Not Apply

Auditor comments, including corrective actions needed if does not meet standard

This standard requires that victims of sexual abuse receive timely, unimpeded access to emergency medical treatment and crisis intervention services. California Correctional Health Care Services policy, Chapter 16, 1.16.1 Prison Elimination Act Policy supports this standard. The policy shows, "When a patient alleges he/she is the victim of sexual violence or misconduct that occurred in an institutional setting, health care staff shall provide necessary and immediate emergency medical attention to the victim and suspect." In addition, the policy requires medical staff to offer and obtain consent for evaluation and treatment of STI/STDs and other tests that may be needed. PBSP offers all treatment related to sexual abuse at no cost to the victim.

Staff reported that following a report of sexual abuse medical and mental health practitioners would be notified and the victim would receive immediate access to emergency medical treatment and crisis intervention services.

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

☐ Exceeds Standard (substantially exceeds requirement of standard)

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

☐ Does Not Meet Standard (requires corrective action)

☐ Does Not Apply

Auditor comments, including corrective actions needed if does not meet standard

California Correctional Health Care Services 1.16.1 Prison Rape Elimination Act Policy and DOM Chapter 5, Article 44 Section 54040.10 Return to Triage and Treatment Area/Receiving and Release outlines that all offenders who have been victimized by sexual abuse will be offered medical and mental health care in a timely manner regardless if it occurred in a facility, community or jail setting.

Section 54040.10 covers how follow-up care is to occur and if necessary, how referrals for follow-up care should occur if offender is transferred or released.

It appears that the level of care provided by PBSP Medical and Mental Health staff is consistent or better than the community level of care.

PBSP does not house female offenders therefore d and 3 do not apply.

Offenders who are the victim of sexual assault are offered a medical test for STD's. This is outlined in policy as well. Policy indicates that there is to be no financial charge to the offender for any medical or mental Health services performed due to a PREA event.

The auditors could not locate a policy which requires a perpetrator be referred to mental health following a substantiated PREA investigation and subsequent violation hearing.

Recommendation: While PBSP has had no substantiated offender sexual abuse investigations, the policy and practice should be revised to ensure perpetrators of sexual abuse are referred to mental health for an evaluation following a violation hearing.

115.86	Sexual abuse incident reviews

☐ Exceeds Standard (substantially exceeds requirement of standard)

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

☐ Does Not Meet Standard (requires corrective action)

☐ Does Not Apply

Auditor comments, including corrective actions needed if does not meet standard

DOM Chapter 5, Article 44, Section 54040.17 requires each Hiring Authority to conduct an incident review at the conclusion of every sexual violence or staff sexual misconduct investigation, including allegations that have not been substantiated. A review is not required for allegations that have been determined to be unfounded.

While the standard requires the review to occur within 30 days of the conclusion of the investigation, the DOM requires the committee to review incidents within 60 days of the date of discovery of the allegation. It was discovered during interviews with investigative staff that reviews of incidents would occur prior to the completion of an investigation as there is no set timeframe for completing an investigation.

As noted in the DOM and according to investigative staff, all elements outlined in 115.86(d) are considered and looked at during the review. PBSP has a form titled Institutional PREA Review Committee (IPRC)-DOM Section 54040.17 that is completed during the review meeting.

PBSP had seven investigations, all deemed unfounded. However, an incident review was conducted on one investigation by mistake. The report was contained within the investigative file. During the review of investigative files, it became clear there was confusion of what a finding of unfounded vs. unsubstantiated meant. The seven investigations, as written, probably should have been deemed unsubstantiated and an incident review conducted.

115.87	Data collection

☐ Exceeds Standard (substantially exceeds requirement of standard)

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

☐ Does Not Meet Standard (requires corrective action)

☐ Does Not Apply

Auditor comments, including corrective actions needed if does not meet standard

CDCR has multiple ways to track PREA investigations conducted within the department which are outlined in DOM Chapter 5, Article 44, Section 54040.19 which shows facilities must add new investigations to the Yearly Tracking Report each month and forward to the Department's PREA Coordinator. In addition, investigators must complete the Survey of Sexual Violence-Incident Adult (SSV-IA) form and forward to the Department's PREA Coordinator within 2 business days from "the date of the allegation". PREA Unit staff confirmed that when an anonymous report is received and the victim cannot be identified or if the victim denies the allegation, the SSV-IA is not forwarded to the Department's PREA Coordinator therefore, these allegations are not included in the data that is collected and aggregated annually. 28 CFR 115.87 (a) specifically states, "The agency shall collect accurate, uniform data for every allegation of sexual abuse at facilities under its direct control…"

It should be noted that CDCR utilizes PREA definitions noted on the SSV-IA and not the definition provided by "28 CFR 115.6 Definitions related to sexual abuse".

DOM Section 54040.19 requires the agency to aggregate the incident-based data at least annually. The agency provided documentation to demonstrate that they routinely collect incident-based data from contracted facilities and the data is reported to the Department of Justice when requested along with facilities data.

Corrective Action:

- The agency must ensure that all allegations, including allegations where a victim cannot be identified or the victim denies the claim, are included in the data being collected, aggregated and reported to the Department of Justice.

- Provide a directive to investigative staff informing them that all allegations, to include allegations where the victim denies the claim or the victim is no identified, will be investigated and the SSV-IA must be completed and forwarded to the PREA Coordinator.

- Provide the auditor with documentation demonstrating all investigators received the directive.

- Provide 3 examples of SSV-IA which are completed and forwarded to the Department's PREA Coordinator of allegations where the victim was unknown or the victim denies the claim.

Corrective Action Period:

PBSP provided documentation demonstrating Local Designated Investigators received training that addressed when the SSV-IA would be completed and forwarded to the PREA Coordinator. The training mandated investigative staff complete the SSV-IA for all allegations, including allegation where a victim is not identified or the victim denies the claim. These allegations will be included in the data that is aggregated and reported to the Department of Justice annually.

PBSP has not received an allegation where the victim could not be identified or denies the claim since the onsite audit, therefore; the facility was unable to provide documentation of practice.

115.88	Data review for corrective action

☐ Exceeds Standard (substantially exceeds requirement of standard)

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

☐ Does Not Meet Standard (requires corrective action)

☐ Does Not Apply

Auditor comments, including corrective actions needed if does not meet standard

DOM Chapter 5, Article 44, Section 54040.17 Institutional PREA Review Committee and Section 54040.19 Tracking- Data collection and Monitoring supports this standard. The policy requires the Departmental PREA Coordinator to review data collected on annual basis and prepare an annual report of their findings and corrective actions. The report is to be routed through the chain of command of the agency Secretary for review and approval then placed on CDCR's website.

CDCR's website at http://www.cdcr.ca.gov/PREA/Reports-Audits.html includes CDCR's 2016 Annual Report.

115.89	Data storage, publication, and destruction

☐ Exceeds Standard (substantially exceeds requirement of standard)

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

☐ Does Not Meet Standard (requires corrective action)

☐ Does Not Apply

Auditor comments, including corrective actions needed if does not meet standard

DOM Chapter 5, Article 44, Section 54040.20 PREA Data Storage and Destruction require that collected PREA data be securely retained for 10 years after the date of initial collection as required by this standard.

The CDCR website contains aggregated sexual abuse data that contains no personal identifiers.

AUDITOR CERTIFICATION:

The auditor certifies the contents of the report are accurate to the best of his/her knowledge and that no conflict of interest exists with respect to his or her ability to conduct an audit of the agency under review.

Vevia Sturm **October 2, 2017**

Auditor Signature Date