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

☐ **Interim** ☒ **Final**

Date of Report February 20, 2018

Auditor Information

Name: Amanda Rasmussen	**Email:** Amanda.L.Rasmussen@doc.state.or.us
Company Name: Oregon Department of Corrections	
Mailing Address: 24499 SW Grahams Ferry Road	**City, State, Zip:** Wilsonville, OR 97070
Telephone: 503-569-8578	**Date of Facility Visit:** November 13-17, 2017

Agency Information

Name of Agency: California Department of Corrections & Rehabilitation		**Governing Authority or Parent Agency** *(If Applicable)*: Click or tap here to enter text.	
Physical Address: 1515 S Street		**City, State, Zip:** Sacramento, CA 95814	
Mailing Address: PO Box 924883		**City, State, Zip:** Sacramento, CA 94283	
Telephone: 916-324-7308		**Is Agency accredited by any organization?** ☒ Yes ☐ No	
The Agency Is:	☐ Military	☐ Private for Profit	☐ Private not for Profit
☐ Municipal	☐ County	☒ State	☐ Federal

Agency mission:
We enhance public safety through safe and secure incarceration of offenders, effective parole supervision, and rehabilitative strategies to successfully reintegrate offenders into our communities.

Agency Website with PREA Information: https://cdcr.ca.gov/PREA/index.html

Agency Chief Executive Officer

Name: Scott Kernan	**Title:** CDCR Secretary
Email: scott.kernan@cdcr.ca.gov	**Telephone:** 916-445-7688

Agency-Wide PREA Coordinator	
Name: Shannon Stark	**Title:** Captain, Agency PREA Coordinator
Email: shannon.stark@cdcr.ca.gov	**Telephone:** 916-324-6688
PREA Coordinator Reports to: Amy Miller, Associate Director	**Number of Compliance Managers who report to the PREA Coordinator** 36

Facility Information

Name of Facility: Valley State Prison			
Physical Address: 21633 Avenue 24 Chowchilla, CA93610			
Mailing Address (if different than above): PO Box 99 Chowchilla, VA 93610			
Telephone Number: 559-665-6100			
The Facility Is:	☐ Military	☐ Private for profit	☐ Private not for profit
☐ Municipal	☐ County	☒ State	☐ Federal
Facility Type:	☐ Jail	☒ Prison	

Facility Mission: The mission of Valley State Prison (VSP) is multi-fold. VSP functions as a Level II, General Population institution housing inmates requiring Sensitive Needs Yard (SNY) placement. VSP also houses inmates who are assigned to the Enhanced Outpatient Program (EOP). The EOP provides a higher level of mental health treatment for inmate requiring a more enhanced treatment plan with mental health staff. VSP has been identified as a Re-Entry hub for the California Department of Corrections and Rehabilitations (CDCR). As a Re-Entry hub, VSP will focus on needs based rehabilitative services to include substance abuse and cognitive behavioral training. VSP offers educational and vocational training, along with work skills training through the Prison Industry Authority Optical and Laundry programs.

Facility Website with PREA Information: https://www.cdcr.ca.gov/PREA/index.html

Warden/Superintendent	
Name: Raythel Fisher, Jr.	**Title:** Warden
Email: raythel.fisher@cdcr.ca.gov	**Telephone:** 559-665-6169

Facility PREA Compliance Manager	
Name: Ramon Chavez	**Title:** Associate Warden
Email: ramon.chavez@cdcr.ca.gov	**Telephone:** 559-665-6179

Facility Health Service Administrator	
Name: Tim Neal	**Title:** Chief Executive Officer
Email: tim.neal@cdcr.ca.gov	**Telephone:** 559-665-6100 ext 5950

Facility Characteristics	
Designated Facility Capacity: 3940	**Current Population of Facility:** 3546
Number of inmates admitted to facility during the past 12 months	2132
Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 30 days or more:	2132
Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 72 hours or more:	2132
Number of inmates on date of audit who were admitted to facility prior to August 20, 2012:	0
Age Range of Population: **Youthful Inmates Under 18:** 0	**Adults:** 18-64
Are youthful inmates housed separately from the adult population?	☐ Yes ☐ No ☒ NA
Number of youthful inmates housed at this facility during the past 12 months:	0
Average length of stay or time under supervision:	Click or tap here to enter text.
Facility security level/inmate custody levels:	Level 2
Number of staff currently employed by the facility who may have contact with inmates:	1083
Number of staff hired by the facility during the past 12 months who may have contact with inmates:	186
Number of contracts in the past 12 months for services with contractors who may have contact with inmates:	2

Physical Plant	
Number of Buildings: 38	**Number of Single Cell Housing Units:** 0
Number of Multiple Occupancy Cell Housing Units:	17
Number of Open Bay/Dorm Housing Units:	0
Number of Segregation Cells (Administrative and Disciplinary:	88

Description of any video or electronic monitoring technology (including any relevant information about where cameras are placed, where the control room is, retention of video, etc.):

Valley State Prison has cameras in the Prison Industry areas of the facility currently. There are 16 cameras in the Laundry, and 18 in the Optical area. The control rooms are located in the supervisory offices for the respective areas. Video records for the Laundry are retained for approximately 30 days. Video records for the Optical area are retained for approximately 90 days. Valley State Prison is scheduled to receive and install video cameras in each housing unit. The installation project is expected to commence in 2018. When the auditor returned to VSP on February 20, 2018, cameras has been installed in each housing unit, but were not yet operational. Five cameras have been physically mounted in each housing unit, and were not in areas that could potentially view inmates in a state of undress.

Medical	
Type of Medical Facility:	Outpatient Housing Unit
Forensic sexual assault medical exams are conducted at:	Community Regional Medical Center
Other	
Number of volunteers and individual contractors, who may have contact with inmates, currently authorized to enter the facility:	153/39
Number of investigators the agency currently employs to investigate allegations of sexual abuse:	17

Audit Findings

Audit Narrative

Amanda Rasmussen, a U.S. Department of Justice (USDOJ) Certified PREA Auditor for Adult Facilities, conducted the Prison Rape Elimination Act (PREA) on-site audit of the Valley State Prison (VSP) in Madera, California from November 13-17, 2017. Valley State Prison is operated by the California Department of Corrections and Rehabilitation (CDCR).The audit was conducted with the assistance of three support staff – Shamroque Alvis, Steven Boston and Robert Real. Alvis and Real are certified PREA auditors. The audit team conducted the site review together. Rasmussen conducted the documentation review, informal interviews with random staff and inmates, interviews with specialized staff, and authored this report. Alvis, Boston and Real conducted interviews of both random and specialized staff and inmates.

The auditor provided the facility with a Notification of Audit on September 25, 2017. The notification contained information on the upcoming audit and stated that any inmate or staff member with pertinent information should send a letter containing this information to the auditor. The auditor instructed the facility to post this notification in all housing units and throughout the facility for the six weeks prior to the onsite audit. The auditor was provided with dated and timestamped photographs indicating the audit notice was posted in a timely manner. The facility's PREA Compliance Manager provided this auditor with documentation indicating that copies were provided to all inmates housed in the Administrative Segregation unit, who would not otherwise have access to posted information in housing unit common areas. During the facility tour, the auditor observed the posting in all housing areas and throughout the facility in inmate-accessible areas. The notice was also observed to be posted in areas only accessible to staff, providing them with the opportunity to contact the auditor. Prior to the onsite review, the auditor received nine letters from inmates at the facility.

On October 11th, the auditor received a compact disc containing all relevant documentation pertaining to the audit, including, but not limited to: the pre-audit questionnaire (PAQ), policies, procedures, memorandum of understanding and training documents. The auditor reviewed the questionnaire and all included documentation. Prior to the site review, the auditor exchanged email communication with the facility PREA Compliance Manager to discuss follow-up questions and concerns, based on the review of the documentation and additional information was provided to the auditor. The auditor reviewed CDCR's 2015 and 2016 Annual PREA Reports. This was the first PREA audit conducted at Valley State Prison.

An entrance meeting was held in the morning on November 13th, with facility leadership and members of the agency's central administration.

After the entrance meeting, the audit team was given a tour of all areas of the facility, including the outlying buildings where inmates may be assigned for work. During the physical plant review, the auditor observed the facility configuration, locations of cameras and security mirrors, staff supervision of inmates, the housing unit layout including shower/toilet areas, placement of posters and other PREA informational resources, security monitoring, inmate intake, and search procedures. Because Valley State Prison originally housed female inmates, shower and toilet areas were mindfully designed to provide for adequate privacy and prevent viewing by opposite gender staff. The only area of the facility that appeared to be newly renovated was partially completed construction on a medication distribution area.

On the second day of the audit, the audit team completed the physical plant review prior to beginning interviews of random staff and inmates. Interviews were conducted with staff assigned to First Watch (2200-0600 hours), Second Watch (0600-1400 hours), and Third Watch (1400-2200 hours) shifts, as well as administrative staff.

On the third and fourth days of the onsite review, the audit team conducted specialized staff and inmate interviews, and completed the remainder of the random staff and inmate interviews.

VSP employs 510 custody staff. These staff include the ranks of captain, lieutenant, sergeant and officer. Security staff are assigned daily to three, eight-hour shifts. A total of 46 random custody staff interviews were conducted, from a diverse cross-section of work assignments on all three shifts. Ten random interviews of non-custody staff were conducted, as well as 29 specialized staff interviews. The auditor selected names for random staff interviews by using a roster provided by the facility on the first day of the on-site review. Additional staff were randomly selected as the audit team toured. Staff were interviewed using the DOJ protocols that question their PREA training and overall knowledge of the agency's zero tolerance policy, reporting mechanisms available to staff and inmates, response protocols when allegations of sexual abuse and/or sexual harassment are made, first responder duties, data collection processes and other pertinent PREA requirements. All interviews were conducted one at a time, in a private and confidential manner. All staff and inmates were approachable and open to speaking with the audit team. The auditor reviewed personnel files for 20 randomly selected staff members to determine compliance with training mandates and background check procedures while onsite.

The inmate population on the first day of the onsite review was 3565. The August 2017 edition of the PREA Auditor Handbook requires at least 25 random inmate interviews and at least 25 targeted inmate interviews for an adult prison population of more than 2501 inmates. All reasonable efforts were made to conduct the required number of targeted inmate interviews; however, only nine targeted inmates were available. Valley State Prison did not have any inmates identified as youthful, blind or deaf, transgender or intersex, gay or bisexual, or inmates placed in segregation because they were at high risk of being sexually victimized. Through interviews with staff and inmates, the audit team was able to identify four inmates who possibly identified as gay or bisexual. Because there were only nine targeted inmates interviewed, the number of random inmates selected was increased. A total of 52 inmate interviews were conducted. Interviews were conducted with at least one inmate from each housing unit. This auditor selected names for random inmate interviews by using a roster provided by the facility on the first day of the on-site review. Additional inmates were randomly selected as the audit team toured.

Case files for 30 inmates in the facility were reviewed to evaluate screening and intake procedures, and documentation of inmate education.

The PAQ provided by the PCM indicated there were 27 allegations of sexual abuse or sexual harassment received by VSP during the audit period. Investigative report files for all allegations were reviewed by the auditor while onsite.

On the fourth day of the audit, the audit team met with Agency PREA Coordinator, Coordinator Shannon Stark, and the facility PCM, Associate Warden Ramon Chavez, to discuss VSP's compliance with the PREA standards. Areas of non-compliance were discussed and a reasonable and achievable corrective action plan was mutually agreed upon.

The exit conference was conducted in the morning on November 17th with facility leadership and members of the agency's central administration. The auditor provided a summary of the audit and thanked the staff for their hard work and commitment to PREA. Agency administration and facility were very open and receptive to an honest discussion of areas where PREA compliance could be strengthened and the VSP PREA compliance team began corrective measures while the auditor was still present onsite.

Prior to the onsite review of Valley State Prison, the auditor conducted outreach to Just Detention International (JDI), the California Coalition against Sexual Assault (CALCASA), Valley Crisis Center, and the Community Action Partnership of Madera County, to learn about issues of sexual safety and related concerns at VSP.

- JDI has survivor outreach teams that respond to all calls and correspondence from incarcerated survivors. They provide a packet of information that includes fact sheets on sexual abuse in detention, litigation information, and national and state-specific resource guides. JDI does not provide direct services to incarcerated survivors at VSP, but does provide referrals to the local rape crisis center, Madera Community Action Partnership. JDI stated that have received about ten letters from incarcerated survivors at VSP during the audit period.
- CALCASA stated they have not provided any direct services to incarcerated survivors at VSP during the audit period.
- Valley Crisis Center responded to initial electronic correspondence, but did not return subsequent messages.
- The Community Action Partnership of Madera County stated that victim advocates, Captains and the Program Manager interact regularly with incarcerated survivors and VSP staff in a variety of ways, to include presentations and in-person response during forensic medical exams and investigatory interviews. The Partnership provides crisis counseling, tips for recovery, and information on understanding trauma. They have provided crisis response to VSP approximately six times during the audit period, and most reports by incarcerated survivors are made with regards to inmate perpetrators. The Partnership stated they have not encountered any obstacles providing services at VSP.

The auditor spoke with Registered Nurse Karen Reid, Statewide Sexual Assault Nurse Examiner (SANE) Coordinator, to discuss and confirm the agreement in place with CDCR to provide SANE/SAFE services at Community Regional Medical Center (CRMC). She verified that all SANEs receive 64 hours of adult/pediatric training that meets the national training standards. She stated that all SANEs are trained in Sacramento and receive additional training once they are stationed at CRMC. She stated that there is always a SANE on duty at CRMC, but if one were not available, the hospital would contact her directly to respond.

After the onsite audit, the auditor utilized the Auditor Compliance Tool for Adult Prisons and Jails as a guide in determining compliance with each standard. In order to determine compliance, the auditor used the information and documentation provided during the pre-audit, information obtained through staff and inmate interviews, as well as observations during the onsite review.

The auditor returned to Valley State Prison on February 20, 2018 to review corrective action taken after the onsite audit. On that date, the auditor toured the housing units to verify changes to the postings about contact methods for the confidential, community-based advocacy center. The auditor spoke informally with 40 inmates in each housing unit to verify if opposite gender announcements have been taking place as required, since November 2017.

Facility Characteristics

The California Department of Corrections and Rehabilitation is a state agency incarcerating approximately 118,000 inmates in 35 publicly operated facilities. The mission statement of CDCR is *"We enhance public safety through safe and secure incarceration of offenders, effective parole supervision, and rehabilitative strategies to successfully reintegrate offenders into our communities".*

All CDCR inmates are received at one of several Reception Centers throughout the state. Inmates are screened for medical and mental health needs, and risk for vulnerability or aggressiveness for sexual abuse. Appropriate housing is assigned based on custody level and mental health and/or medical needs. Immediately upon arrival at the assigned institution, inmates are again assessed utilizing the PREA screening form.

The mission statement of VSP is multi-fold. VSP functions as a Level II General Population institution housing inmates requiring Sensitive Needs Yard (SNY) placement. VSP also houses inmates who are assigned to the Enhanced Outpatient Program (EOP). The EOP provides a higher level of mental health treatment for inmates requiring a more enhanced treatment plan with mental health staff. VSP has been identified as a Re-Entry hub for the CDCR. As a Re-Entry hub, VSP focuses on needs-based rehabilitative services, to include substance abuse and cognitive behavioral training. VSP offers educational, vocational and work skills training.

VSP was constructed in Chowchilla, California in 1995. It was originally known as Valley State Prison for Women, a multi-custody level facility for female inmates. In 2011, the California Legislature passed Assembly Bill 109, which resulted in a decrease in the female population and rate of recidivism. This allowed CDCR to utilize the facility to house Level II SNY inmates. The conversion from housing female inmates to male inmates was completed in January 2013.

Each pod has three wall-mounted telephones, a water fountain and an adjunct dayroom/television area with sitting space. The food service, dining room area, education, library, and visitation are all located within the complex.

VSP houses male inmates ranging in age from 18-64 years old. The average daily population for the audit period was 3476 inmates.

The following vocational and educational opportunities are available to offenders at VSP:

Adult Basic Education, Anger Management, Arts in Corrections, Auto Mechanics, Building Maintenance, CalID , Computer Literacy, Cosmetology, Criminal Thinking, Electrical, Electronics, Family Relationships, General Education Development, High School Diploma, Library Services, Masonry, Offender Mentor Certification, Office

Services, Physical Education, Small Engine Repair, Substance Use Disorder, Transitions, Voluntary Education, and Welding. The Prison Industries Authority (PIA) employs inmates in Farm Operation, Eyewear Manufacturing and Laundry.

Summary of Audit Findings

Number of Standards Exceeded: 2

115.17 Hiring and Promotion Decisions
115.86 Sexual Abuse Incident Reviews

Number of Standards Met: 43

115.11 Zero Tolerance of Sexual Abuse and Sexual Harassment; PREA Coordinator
115.12 Contracting with Other Entities for the Confinement of Inmates
115.13 Supervision and Monitoring
115.14 Youthful Inmates
115.15 Limits to Cross-Gender Viewing and Searches
115.16 Inmates with Disabilities and Inmates who are Limited English Proficient
115.18 Upgrades to Facilities and Technologies
115.21 Evidence Protocol and Forensic Medical Examinations
115.22 Policies to Ensure Referrals of Allegations for Investigations
115.31 Employee Training
115.32 Volunteer and Contractor Training
115.33 Inmate Education
115.34 Specialized Training: Investigations
115.35 Specialized Training: Medical and Mental Health Care
115.41 Screening for Risk of Victimization and Abusiveness
115.42 Use of Screening Information
115.43 Protective Custody
115.51 Inmate Reporting
115.52 Exhaustion of Administrative Remedies
115.53 Inmate Access to Outside Confidential Support Services
115.54 Third-Party Reporting
115.61 Staff and Agency Reporting Duties
115.62 Agency Protection Duties
115.63 Reporting to Other Confinement Facilities
115.64 Staff First Responder Duties
115.65 Coordinated Response
115.66 Preservation of Ability to Protect Inmates from Contact with Abusers
115.67 Agency Protection against Retaliation
115.68 Post-allegation Protective Custody
115.71 Criminal and Administrative Agency Investigations
115.72 Evidentiary Standards for Administrative Investigations
115.73 Reporting to Inmates
115.76 Disciplinary Sanction for Staff

115.77 Corrective Action for Contractors and Volunteers
115.78 Disciplinary Sanctions for Inmates
115.81 Medical and Mental Health Screenings; History of Sexual Abuse
115.82 Access to Emergency Medical and Mental Health Services
115.83 Ongoing Medical and Mental Health Care for Sexual Abuse Victims and Abusers
115.87 Data Collection
115.88 Data Review for Corrective Action
115.89 Data Storage, Publication, and Destruction
115.401 Frequency and Scope of Audits
115.403 Audit Contents and Findings

Number of Standards Not Met: 0

PREVENTION PLANNING

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

115.11 (a)

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

115.11 (b)

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

115.11 (c)

- If this agency operates more than one facility, has each facility designated a PREA compliance manager? (N/A if agency operates only one facility.) ☒ Yes ☐ No ☐ NA

- Does the PREA compliance manager have sufficient time and authority to coordinate the facility's efforts to comply with the PREA standards? (N/A if agency operates only one facility.)
  ☒ Yes ☐ No ☐ NA

Auditor Overall Compliance Determination

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

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

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

(a) Department Operations Manual, Chapter 5, Article 44, section 54040.1 *(Policy)* states on page 471, *"The California Department of Corrections and Rehabilitation (CDCR) is committed to providing a safe, humane, secure environment, free from offender on offender sexual violence, staff sexual misconduct, and sexual harassment. This will be accomplished by maintaining a program to address education/prevention, detection, response, investigation, and tracking of these behaviors and to address successful community re-entry of the offender. CDCR shall maintain a zero tolerance for sexual violence, staff sexual misconduct and sexual harassment in its institutions, community correctional facilities, conservation camps, and for all offenders under its jurisdiction. All sexual violence, staff sexual misconduct, and sexual harassment is strictly prohibited. This policy applies to all offenders and persons employed by the CDCR, including volunteers and independent contractors assigned to an institution, community correctional facility, conservation camp, or parole."* This policy outlines the agency's comprehensive approach to preventing, detecting and responding to sexual abuse and sexual harassment, including definitions of prohibited behaviors and consequences for those found to have participated in prohibited behaviors. The Orientation Handbook, provided to each inmate upon arrival at VSP, contains information about zero-tolerance on page one. The zero-tolerance policy is observable throughout the facility, as evidenced by inmate informational postings and handbooks. Interviews with both staff and inmates indicate they are knowledgeable of the zero-tolerance policy.

(b) The CDCR employs an upper-level, agency-wide PREA Coordinator. The PREA Coordinator reports directly to an Associate Director. This position is reflected in agency organizational charts. The PREA Coordinator has 36 PREA Compliance Managers (PCMs) that report directly to her for PREA matters. This includes one PREA Compliance Manager at each of the 35 facilities, and one PCM at Headquarters that oversees the Contracted Beds Unit. The PREA Coordinator's Duty Statement indicates that she will *"maintain a program to address education/prevention, detection, response, investigation and tracking of sexual misconduct and to address successful community re-entry of the victim."* When interviewed, Captain Stark indicated that she has the time, resources and authority required to manage her responsibilities.

(c) Associate Warden Ramon Chavez is designated as the PREA Compliance Manager for VSP. The Associate Warden is classified as a Correctional Administrator, reporting directly to the Chief Deputy Warden and is a member of the Warden's Executive staff. The Associate Warden's duty statement indicates he will *"act as the PREA Compliance Manager for the Institution, to include receiving notification for all allegations of PREA incidents, provide required reports to HQ, conduct necessary follow-up for Reception Center inmates within 30*

days of arrival, ensure Protection Against Retaliation processes are assigned and documented, act as a member of the PREA Institutional Review Committee, lead preparation for PREA audits, and attend meetings and training related to PREA policies." When interviewed, Chavez indicated that he has the time to manage all of his PREA-related responsibilities.

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

115.12 (a)

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

115.12 (b)

- Does any new contract or contract renewal signed on or after August 20, 2012 provide for agency contract monitoring to ensure that the contractor is complying with the PREA standards? (N/A if the agency does not contract with private agencies or other entities for the confinement of inmates OR the response to 115.12(a)-1 is "NO".) ☒ Yes ☐ No ☐ NA

Auditor Overall Compliance Determination

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

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

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

(a) CDCR has nine contracts for confinement with other entities: two Corrections Corporation of America (CCA) facilities out of state (La Palma Correctional Center and Tallahatchie County Correctional Facility); four CCA facilities in state (Central Valley, McFarland, Desert View and Golden State); and three GEO facilities ran by city agencies in state (Shafter, Taft and Delano). These contracts include language that states, *"The CDCR Offenders in the Facilities shall be confined and supervised in accordance with the CCF Title 15, DOM, and receiving states' existing state law."* This contract includes language requiring *"all offenders suspected of being sexually assaulted shall be sent to the local emergency room for treatment, and a rape kit will be sent to the hospital with the transferring officers, consistent with CDCR Prison Rape Elimination Act (PREA) protocols."* On November 20, 2015, Captain Stark sent additional contract language to contract holders, for inclusion into renewing contracts

along with the expectation regarding its use. Captain Stark identified the PCM as the responsible party to ensure training is provided to ensure contractors know why the additional contract language is required and what their responsibilities are. The additional contract language is listed as Exhibit D, and states, "*CDCR maintains a zero tolerance for sexual misconduct in its institutions, community correctional facilities, conservation camps and for all offenders under its jurisdiction. All sexual misconduct is strictly prohibited.*

CDCR is committed to providing a safe, humane, secure environment, free from sexual misconduct. This will be accomplished by maintaining a program to ensure education/prevention, detection, response, investigation and tracking of sexual misconduct and to address successful community re-entry of the victim.

All Contractors and their employees are expected to ensure compliance with this policy as described in Department Operations Manual, Chapter 5, Article 44.

If you are providing services for the confinement of our inmates, you and your staff are required to adopt and comply with the PREA standards, 28 Code of Federal Regulations (CFR) Part 115 and with CDCR's Department Operations Manual, Chapter 5, Article 44, including updates to this policy. This will include CDCR staff and outside audit personnel (who also conduct PREA audits of state prisons) conducting audits to ensure compliance with the standards.

As a Contractor with CDCR, you shall not assign an employee to a CDCR facility or assign an employee to duties if that employee will have contact with CDCR inmates, if that employee has 1) engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997); 2) been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or 3) has been civilly or administratively adjudicated to have engaged in the activity described in this section.

The Contractor shall conduct a criminal background records check for each contract employee who will have contact with CDCR inmates and retain the results for audit purposes. By signing this contract the Contractor agrees to ensure that all of the mandates of this Section 5: Prison Rape Elimination Policy are complied with. Material omissions, by the contract employee, regarding such misconduct or the provision of materially false information, shall be grounds for removal from institutional grounds.

Contract employees, who have contact with inmates, shall be provided training via the Exhibit titled; "PRISON RAPE ELIMINATION POLICY, Volunteer/Contractor Informational Sheet" to learn their responsibilities under the agency's sexual abuse and sexual harassment prevention, detection, and response policies and procedures. A copy of this signed informational sheet will be provided to the institution before a contract employee may have contact with inmates.

Any contract employee who appears to have engaged in sexual misconduct of an inmate shall be prohibited from contact with inmates and shall be subject to administrative and/or criminal investigation. Referral shall be made to the District Attorney unless the activity was clearly not criminal. Reportable information shall be sent to relevant licensing bodies."

(b) All contracts include provisions for contract monitors, who will monitor compliance with the contract through *"internal procedures evaluation, examination of program data, special analysis, on-site checking, formal audit examinations or any other reasonable procedures as CDCR or the Receiver may in their sole discretion deem necessary or appropriate."*

Standard 115.13: Supervision and monitoring

115.13 (a)

- Does the agency ensure that each facility has developed a staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring, to protect inmates against sexual abuse? ☒ Yes ☐ No

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

- Does the agency ensure that each facility's staffing plan takes into consideration the generally accepted detention and correctional practices in calculating adequate staffing levels and determining the need for video monitoring? ☒ Yes ☐ No

- Does the agency ensure that each facility's staffing plan takes into consideration any judicial findings of inadequacy in calculating adequate staffing levels and determining the need for video monitoring? ☒ Yes ☐ No

- Does the agency ensure that each facility's staffing plan takes into consideration any findings of inadequacy from Federal investigative agencies in calculating adequate staffing levels and determining the need for video monitoring? ☒ Yes ☐ No

- Does the agency ensure that each facility's staffing plan takes into consideration any findings of inadequacy from internal or external oversight bodies in calculating adequate staffing levels and determining the need for video monitoring? ☒ Yes ☐ No

- Does the agency ensure that each facility's staffing plan takes into consideration all components of the facility's physical plant (including "blind-spots" or areas where staff or inmates may be isolated) in calculating adequate staffing levels and determining the need for video monitoring? ☒ Yes ☐ No

- Does the agency ensure that each facility's staffing plan takes into consideration the composition of the inmate population in calculating adequate staffing levels and determining the need for video monitoring? ☒ Yes ☐ No

- Does the agency ensure that each facility's staffing plan takes into consideration the number and placement of supervisory staff in calculating adequate staffing levels and determining the need for video monitoring? ☒ Yes ☐ No

- Does the agency ensure that each facility's staffing plan takes into consideration the institution programs occurring on a particular shift in calculating adequate staffing levels and determining the need for video monitoring? ☒ Yes ☐ No ☐ NA

- Does the agency ensure that each facility's staffing plan takes into consideration any applicable State or local laws, regulations, or standards in calculating adequate staffing levels and determining the need for video monitoring? ☒ Yes ☐ No

- Does the agency ensure that each facility's staffing plan takes into consideration the prevalence of substantiated and unsubstantiated incidents of sexual abuse in calculating adequate staffing levels and determining the need for video monitoring? ☒ Yes ☐ No

- Does the agency ensure that each facility's staffing plan takes into consideration any other relevant factors in calculating adequate staffing levels and determining the need for video monitoring? ☒ Yes ☐ No

115.13 (b)

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

115.13 (c)

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

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

- In the past 12 months, has the facility, in consultation with the agency PREA Coordinator, assessed, determined, and documented whether adjustments are needed to: The resources the facility has available to commit to ensure adherence to the staffing plan? ☒ Yes ☐ No

115.13 (d)

- Has the facility/agency implemented a policy and practice of having intermediate-level or higher-level supervisors conduct and document unannounced rounds to identify and deter staff sexual abuse and sexual harassment? ☒ Yes ☐ No

- Is this policy and practice implemented for night shifts as well as day shifts? ☒ Yes ☐ No

- Does the facility/agency have a policy prohibiting staff from alerting other staff members that these supervisory rounds are occurring, unless such announcement is related to the legitimate operational functions of the facility? ☒ Yes ☐ No

Auditor Overall Compliance Determination

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

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

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

(a) CDCR has a standardized staffing plan which has taken into consideration the physical plant layout, security level and type of offender and their specific needs when developing the staffing plan for each of its facilities. The facility PCM, in consultation with the PREA Coordinator, utilizes data from Institutional PREA Review Committee (IPRC) documents and any Survey of Sexual Violence Adult Incident forms to assist in completing the staffing plan review. In 2016, VSP had 28 incidents of sexual abuse, staff sexual misconduct and sexual harassment. The staffing plan review indicated there was not a need to change staffing levels in order to deter future incidents. While onsite, the audit team observed a sufficient number of custody and support staff in all areas of the facility.

(b) Valley State Prison has a process in place to fill vacant posts, modify programming as necessary, and a reporting mechanism should all posts not be filled. Through these measures, the institution management team ensures that a sufficient number of staff are present for each shift. Warden Fisher indicated in his interview that VSP has not deviated from the staffing plan during the audit period.

(c) Department Operations Manual, Chapter 5, Article 44, section 54040.17.1 (*Annual Review of Staffing Plan*) states, *"Whenever necessary, but no less frequently than once each year, in consultation with the PREA Coordinator, the institutional PCM and the Program Support Unit shall assess, determine, and document whether adjustments are needed to: (1) The staffing plan; (2) The facility's deployment of video monitoring systems and other monitoring technologies; and (3) The resources assigned to ensure adherence to the staffing plan."* Documentation of the most recent staffing plan review during the audit period was examined. This documentation indicated there were no findings of inadequacy by any agencies or oversight bodies. All components of the facility's physical plant were reviewed, to include any areas of limited visibility or areas where staff or inmates may be isolated.

(d) Department Operations Manual, Chapter 5, Article 44, section 54040.4 *(Education and Prevention)* states on page 473, *"A custody supervisor assigned to each facility or unit shall conduct weekly unscheduled security checks to identify and deter sexual violence, staff sexual misconduct, and sexual harassment of any kind. These security checks shall be documented in the Unit Log Book in red pen. The Unit Log Book shall indicate the date, time, and the location that the security check was completed."* While onsite, intermediate and higher-level supervisors were interviewed, and verified they conduct unannounced rounds on all shifts, in order to detect and deter any staff misconduct, including staff sexual abuse and sexual harassment. Unit Log Books were reviewed by this auditor in multiple areas of the facility to ensure these rounds are conducted and documented on all shifts over time. CDCR does not have a policy to prohibit staff from alerting other staff members that these supervisory rounds are occurring.

For corrective action, the auditor required CDCR to provide written direction to all staff informing them that they are prohibited from alerting other staff members that supervisory rounds are occurring, unless such

announcement is related to the legitimate operational functions of the facility. Valley State Prison Warden Fisher issued a written memorandum to all Associate Wardens, Correctional Captains, Lieutenants and Sergeants on January 18, 2018. The memorandum states, *"The purpose of this memorandum is to reiterate Valley State Prison's (VSP) policy regarding the requirement for Correctional Sergeants to conduct unscheduled Prison Rape Elimination Act security checks in the housing units. Correctional Sergeants shall walk each hallway in the housing units in order to make themselves available to the inmate population for the purpose of deterring sexual violence, staff sexual misconduct and sexual harassment of any kind. The security checks shall be documented in the unit log book in red ink noting the date, time, and location of the security checks. Staff are prohibited from alerting other staff members that these security checks are occurring."* CDCR will update Department Operations Manual, Chapter 5, Article 44, section 54040.17.1 to include this prohibition at the next revision.

Standard 115.14: Youthful inmates

115.14 (a)

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

115.14 (b)

- In areas outside of housing units does the agency maintain sight and sound separation between youthful inmates and adult inmates? (N/A if facility does not have youthful inmates [inmates <18 years old].) ☐ Yes ☐ No ☒ NA

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

115.14 (c)

- Does the agency make its best efforts to avoid placing youthful inmates in isolation to comply with this provision? (N/A if facility does not have youthful inmates [inmates <18 years old].) ☐ Yes ☐ No ☒ NA

- Does the agency, while complying with this provision, allow youthful inmates daily large-muscle exercise and legally required special education services, except in exigent circumstances? (N/A if facility does not have youthful inmates [inmates <18 years old].) ☐ Yes ☐ No ☒ NA

- Do youthful inmates have access to other programs and work opportunities to the extent possible? (N/A if facility does not have youthful inmates [inmates <18 years old].) ☐ Yes ☐ No ☒ NA

Auditor Overall Compliance Determination

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

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

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

CDCR houses juvenile offenders in separate facilities, operated under the Division of Juvenile Justice. The auditor reviewed VSP population reports for the last 12 months, sorted by age, and did not find any inmates under the age of 18 listed. The daily population report provided for November 13 did not include any inmates under the age of 18. No interviews of staff or inmates indicted a youthful inmate may have been housed at VSP.

Standard 115.15: Limits to cross-gender viewing and searches

115.15 (a)

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

115.15 (b)

- Does the facility always refrain from conducting cross-gender pat-down searches of female inmates in non-exigent circumstances? (N/A here for facilities with less than 50 inmates before August 20, 2017.) ☒ Yes ☐ No ☐ NA

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

115.15 (c)

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

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

115.15 (d)

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

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

115.15 (e)

- Does the facility always refrain from searching or physically examining transgender or intersex inmates for the sole purpose of determining the inmate's genital status? ☒ Yes ☐ No

- If an inmate's genital status is unknown, does the facility determine genital status during conversations with the inmate, by reviewing medical records, or, if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner? ☒ Yes ☐ No

115.15 (f)

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

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

Auditor Overall Compliance Determination

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

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

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

(a) Department Operations Manual, Chapter 5, Article 19, section 52050.16.5 *(Unclothed Body Search of Inmates)* states on page 388, *"Correctional personnel, other than qualified medical staff, shall not conduct unclothed body inspections or searches of an inmate of the opposite sex, except in an emergency. Routine unclothed body searches shall be conducted in a safe manner and in an area that allows the inmate to preserve some measure of dignity and self-respect. Routine unclothed body searches shall not be completed by staff of the*

opposite biological sex." This auditor reviewed the CDCR Office of Training and Professional Development Lesson Plan for *Searches and Inmate Property*, which clearly reiterates that Clothed Body Searches will only be conducted by correctional staff of the same biological sex. Interviews with staff and inmates did not indicate that cross-gender Unclothed Body Searches have occurred, nor did the audit team observe any cross-gender Unclothed Body Searches while onsite at VSP.

(b) Department Operations Manual, Chapter 5, Article 19, section 52050.16.4 (Clothed Body Search of Female Inmates) directs, *"Clothed Body Searches of female inmates shall be conducted by female correctional staff only, except in emergency situations as follows: When circumstances exist that require an immediate search of a female inmate in order to avoid the threat of death, escape, or great bodily injury to staff, inmates, or visitors – and only until sufficient numbers of female correctional staff are available to assume critical body search duties."* The policy prescribes the manner in which Clothed Body Searches will be performed by male correctional staff during emergency circumstances. VSP does not house any female inmates.

(c) Department Operations Manual, Chapter 5, Article 19, section 52050.16.4 *(Clothed Body Search of Female Inmates)* states, *"At any time a male correctional staff member conducts a pat-down search of a female inmates, the search shall be documented. This documentation shall be completed utilizing a Notice of Unusual Occurrence which shall be reviewed by the supervisor and routed to the institutional PREA Compliance Manager (PCM). The PCM shall retain the completed document, in accordance with the Records Retention Schedule, for audit purposes."* The CDCR Officer of Training and Lesson Plan for *Searches and Inmate Property* contains the same directive. VSP does not house any female inmates.

(d) Department Operations Manual, Chapter 5, Article 44, section 54040.4 (*Education and Prevention*) states on page 473, *"Each institution shall enable offenders to shower, perform bodily functions, and change clothing without non-medical staff of the opposite biological sex viewing their breast, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks. Except in circumstances where there would be an impact to safety and security, modesty screens shall be placed strategically in areas that prevent incidental viewing. In order to minimize cross gender exposure, staff of the opposite biological sex shall announce their presence when entering the housing unit. This announcement is required at the beginning of each shift and/or when the status quo within the housing unit changes. This policy shall be included in each institution's orientation handbook. This will allow the inmate to take into consideration that staff of the opposite gender may be present when performing bodily and bathing functions."* During the onsite review, opposite gender announcements were not consistently observed. Interviews with inmates indicated these announcements were not taking place as directed, and interviews with staff indicated they were confused about when they were to make the announcements. The majority of interviews indicated there was an announcement made facility-wide over the public address system once a day, at approximately 0600 hours. All inmate restroom and shower areas of the facility had adequate barriers in place to prevent opposite gender viewing, with the exception of the segregation recreation yard toilets. Because VSP has been unable to install barriers in the recreation enclosure restrooms, the enclosures are no longer being used.

(e) California Code of Regulations, Title 15, section 3287 (*Cell, Property and Body Inspections)* states that inmates are subject to an inspection of his or her person, either clothed or unclothed *"when there is a reasonable suspicion to believe the inmate may have unauthorized or dangerous items concealed on his or her person, or that he or she may have been involved in an altercation of any kind. Such inspections may also be a routine requirement for inmate movement into or out of high security risk areas."* Department Operations Manual,

Chapter 5, Article 19, section 52050.16.7 *(Unclothed and Clothed Body Searches of Transgender or Intersex Inmates)* states, *"In the event that there is an individual going through Receiving and Release (R&R) who self-identifies as transgender or self-identifies with a gender that seems not to match their biological sex, the search will be conducted by staff of the same biological sex as the inmate to be searched. In the event that an individual's genital status is ambiguous, the search shall be conducted by a staff member that is the same biological sex as indicated in the inmate's records. If staff are unable to determine the genital status through medical records or an interview with the inmate, the inmate shall be placed on single-cell status or in administrative segregation – for his/her own safety, until the standard intake medical evaluation is completed. This standard medical examination will establish the genital status of the inmate."* Interviews with staff indicated they were aware of agency policy prohibiting searches for the sole purpose of determining an inmate's genital status. VSP is not one of the 11 facilities identified by CDCR to house transgender or intersex inmates. Those 11 facilities have been identified as offered a level of care best suited for the transgender population. There were no transgender or intersex inmates at VSP to interview.

(f) Department Operations Manual, Chapter 5, Article 44, section 54040.4 (Education and Prevention) states, *"Employees shall also be trained in how to conduct cross-gender pat-down searches, transgender pat-down searches, and unclothed body cavity searches. When conducting these types of searches, employees shall ensure that these searches are conducted in a professional, respectful manner, and in the least intrusive manner possible consistent with security needs."* California Code of Regulations, Title 15, section 3287 (Cell, Property and Body Inspections) directs, *"All such inspections shall be conducted in a professional manner which avoids embarrassment or indignity to the inmate."* The CDCR Officer of Training and Lesson Plan for *Searches and Inmate Property* indicates that Clothed Body Searches of female inmates who identify as male will be searched utilizing the usual and customary process for searching female inmates. For male inmates who identify as female, staff who utilize an alternate search method if the inmate has been designated as transgender on CDCR Form 128-C3 and requests to be searched differently. The technique to be used when searching a male inmate who identifies as female requires the lower body to be searched the same as all male inmates and the upper body to be searched utilizing the back of the hand, as staff would any other female inmate. While onsite, the auditor reviewed a random sample of employee records to ensure they had received required training.

As part of corrective action, VSP Warden Fisher issued a written memorandum to all staff on November 27, 2017. The memorandum states, *"The purpose of this memorandum is to reiterate Valley State Prison's (VSP) policy regarding the expectation of announcing cross gender staff. In order to minimize cross gender exposure, it is the responsibility of housing unit Correctional Officers to announce the presence of staff of the opposite biological sex when entering areas where inmates are housed."* The post order for floor officers was updated to include the following language: *"In order to minimize cross gender exposure, staff of the opposite biological sex shall announce their presence when entering areas where inmates are housed. The announcement is only required when the gender status quo has changed within the unit. For example, if you are a female and you enter a housing unit where only male staff are working, you need to announce your presence within the unit. If a male and a female staff member are working within the housing unit and a female staff member enters the unit there is no need for the female staff member to make an announcement because the status quo has not changed."* On February 20, 2018, the auditor returned to VSP to tour each housing unit, observe if opposite gender announcements were taking place, and to informally interview inmates to verify that opposite gender announcements were taking place as required. The auditor randomly selected inmates from each housing unit during the tour, and informally interviewed approximately 40 inmates. All but two inmates indicated these

announcements were taking place, and were no longer being made once each day on the public address system. Approximately five inmates stated that in addition to the unit announcements, staff knocked on multi-occupancy cell doors prior to entering, to ensure all inmates were properly dressed.

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

115.16 (a)

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

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

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

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

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

- Does the agency take appropriate steps to ensure that inmates with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: Other (if "other," please explain in overall determination notes)? ☒ Yes ☐ No

- Do such steps include, when necessary, ensuring effective communication with inmates who are deaf or hard of hearing? ☒ Yes ☐ No

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

- Does the agency ensure that written materials are provided in formats or through methods that ensure effective communication with inmates with disabilities including inmates who: Have intellectual disabilities? ☒ Yes ☐ No

- Does the agency ensure that written materials are provided in formats or through methods that ensure effective communication with inmates with disabilities including inmates who: Have limited reading skills? ☒ Yes ☐ No

- Does the agency ensure that written materials are provided in formats or through methods that ensure effective communication with inmates with disabilities including inmates who: Are blind or have low vision? ☒ Yes ☐ No

115.16 (b)

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

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

115.16 (c)

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

Auditor Overall Compliance Determination

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

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

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

(a and b) In order to ensure that inmates with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, CDCR provides reasonable modification or accommodation to inmates with physical or communicational disabilities pursuant to the Americans with Disabilities Act. Appropriate provisions are made to ensure effective communication for offenders not fluent in English, those with low literacy levels, and persons with disabilities. Institutions are permitted to consider the use of offender peer educators to enhance the offender population's knowledge and understanding of PREA and sexually transmitted diseases. When an inmate's Test of Adult Basic

Education score is 4.0 or lower, employees are required to query the inmate to determine whether or not assistance is needed to achieve effective communication. The employee is required to document on appropriate CDCR forms his/her determination of whether the inmate appeared to understand, the basis for that determination and how it was made. All written PREA information for inmates was available in both English and Spanish. Interviews with staff and inmates indicated that inmates with disabilities are afforded additional accommodation to ensure their access to all aspects of the agency's PREA program.

(c) Department Operations Manual, Chapter 5, Article 44, section 54040.7 (Detection, Notification, and Reporting) 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 offender's allegations."* Department Operations Manual, Chapter 5, Article 44, section 54040.12 *(Investigation)* states, *"Except in limited circumstances or exigent circumstances, investigators shall not rely solely on inmate interpreters, readers, or other types of inmate assistance during a sexual violence, staff sexual misconduct, or sexual harassment investigation."* The auditor reviewed the contract between CDCR and Interpreters Unlimited, Incorporated, which states, *"The Contractor shall provide interpreter services over the telephone, facsimile or internet, for any of one hundred forty (140) languages to assist CDCR with inmates/wards who have English as a second language. Interpreters shall be available twenty-four (24) hours a day, seven (7) days a week."* Interviews with random inmates and all levels of staff indicated that staff are used to translate, and no instances of inmate translators were noted. Staff translation services were utilized during at least one interview with a LEP inmate.

Standard 115.17: Hiring and promotion decisions

115.17 (a)

- Does the agency prohibit the hiring or promotion of anyone who may have contact with inmates who has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997)? ☒ Yes ☐ No

- Does the agency prohibit the hiring or promotion of anyone who may have contact with inmates who has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse? ☒ Yes ☐ No

- Does the agency prohibit the hiring or promotion of anyone who may have contact with inmates who has been civilly or administratively adjudicated to have engaged in the activity described in the question immediately above? ☒ Yes ☐ No

- Does the agency prohibit the enlistment of services of any contractor who may have contact with inmates who has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997)? ☒ Yes ☐ No

- Does the agency prohibit the enlistment of services of any contractor who may have contact with inmates who has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse? ☒ Yes ☐ No

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

115.17 (b)

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

115.17 (c)

- Before hiring new employees, who may have contact with inmates, does the agency: perform a criminal background records check? ☒ Yes ☐ No

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

115.17 (d)

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

115.17 (e)

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

115.17 (f)

- Does the agency ask all applicants and employees who may have contact with inmates directly about previous misconduct described in paragraph (a) of this section in written applications or interviews for hiring or promotions? ☒ Yes ☐ No

- Does the agency ask all applicants and employees who may have contact with inmates directly about previous misconduct described in paragraph (a) of this section in any interviews or written self-evaluations conducted as part of reviews of current employees? ☒ Yes ☐ No

- Does the agency impose upon employees a continuing affirmative duty to disclose any such misconduct? ☒ Yes ☐ No

115.17 (g)

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

115.17 (h)

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

Auditor Overall Compliance Determination

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

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

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

(a) Department Operations Manual, Chapter 5, Article 6, section 31060.3 *(Power of Appointment)* indicates that the Agency Secretary is the appointing authority for all civil services positions in CDCR. The policy states, *"In accordance with 28 Code of Federal Regulations (CFR), Part 115, Standard 115.17, hiring authorities shall not hire or promote anyone who may have contact with inmates, who: has engaged in sexual violence, or staff sexual misconduct of an inmate in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution; has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or has been civilly or administratively adjudicated to have engaged in the activity described immediately above."* Twenty randomly selected employee files were reviewed onsite to determine if the proper criminal record background checks had been conducted, and the questions regarding past conduct were asked and answered.

(b) Department Operations Manual, Chapter 5, Article 6, section 31060.3 *(Power of Appointment)* directs hiring authorities to *"consider substantiated incidents of sexual harassment in all hiring decisions".* There were no incidents noted in any of the files reviewed.

(c) Department Operations Manual, Chapter 3, Article Department Operations Manual, Chapter 5, Article 6, section 31060.16 *(Criminal Records Check)* states that a criminal records check is a requirement for employment with CDCR and includes consent to be fingerprinted, which is also known as "Live Scan". Live Scan refers to the technology used by law enforcement agencies to electronically capture fingerprints and palm prints. An

interview with a Human Resource manager indicated that Live Scan allows for a national criminal history search, to include FBI records. The agency will be notified of any arrest of any employee on the following business day until a "no longer interested" form is submitted by the agency. This auditor reviewed forms submitted by new employees, and verified the questions regarding prohibited conduct. These questions are asked on the Supplemental Application for all CDCR Employees, form 1951. Applicants are also required to list all previous confinement facility employers for whom they have worked, regardless of when they were employed there. While onsite, the personnel files of 20 randomly selected staff were reviewed and the criminal background check information was verified.

(d) CDCR utilizes the Live Scan system to conduct criminal background checks of contractors who may have contact with inmates. Contractors carry an identification card for the duration of their project, or up to five years from the date of issue. Background checks must be conducted prior to the issuance of a new identification card. Volunteers carry an identification card that expires on an annual basis. Background checks much be conducted prior to the issuance of a new identification card.

(e) CDCR and VSP exceed the standard requirement to conduct criminal background checks at least every five years, through their use of Live Scan. An arrest that may not otherwise discovered until a manual background check is reported in real time to the agency.

(f) Department Operations Manual, Chapter 5, Article 6, section 31060.3 *(Power of Appointment)* directs the hiring authority to *"ask all applicants and employees who have contact with inmates directly about previous staff sexual misconduct and sexual harassment of inmates, in written applications or interviews for hiring or promotions and in any interviews or written self-evaluations as part of reviews of current employees".*

(g) The applicant's signature certifies there are no *"misrepresentations, omissions, or falsifications in the foregoing statements and that all statements and answers are true and correct".* It also acknowledges, *"I understand and agree that if any material facts are discovered which differ from those facts stated by me on my employee application, this supplemental application, during my interview, or at any time prior to employment with CDCR, I may not be offered the job. Furthermore, I understand and agree that if material facts are later discovered which are inconsistent with or differ from the facts I furnished before beginning employment, I may be disciplined, up to and including dismissal from State service."*

(h) Documentation from the VSP and auditor interview of Human Resource staff indicated that information is provided to other institutional employers regarding substantiated allegations of sexual abuse or sexual harassment involving a former employee.

Standard 115.18: Upgrades to facilities and technologies

115.18 (a)

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

115.18 (b)

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

Auditor Overall Compliance Determination

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

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

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

(a) The CDCR Design and Construction Policy Guidelines Manual, Volume I, For Adult Prisons, states, *"When designing or acquiring any new facility and in planning any substantial expansion or modification of existing facilities, the department shall consider the effect of the design, acquisition, expansion, or modification upon the department's ability to protect inmates from sexual abuse."* AW Chavez provided documentation to the auditor of his involvement in meetings pertaining to potential construction at VSP. Interviews with high level staff indicated they were all aware of the requirement to consider PREA when designing or acquiring any new facilities, or planning modifications of existing facilities.

(b) The CDCR Design and Construction Policy Guidelines Manual, Volume I, For Adult Prisons, 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."* AW Chavez provided documentation to the auditor of his involvement in meetings pertaining to surveillance/monitoring technology installation or updates at VSP. Interviews with high level staff indicated they were all aware of the requirement to consider PREA when considering changes. During the onsite

review, cameras were observed internally in hallways, common areas and entrances to buildings. No cameras were placed in showers, toilet areas or in single cells.

RESPONSIVE PLANNING

Standard 115.21: Evidence protocol and forensic medical examinations

115.21 (a)

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

115.21 (b)

- Is this protocol developmentally appropriate for youth where applicable? (N/A if the agency/facility is not responsible for conducting any form of criminal OR administrative sexual abuse investigations.) ☒ Yes ☐ No ☐ NA

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

115.21 (c)

- Does the agency offer all victims of sexual abuse access to forensic medical examinations, whether on-site or at an outside facility, without financial cost, where evidentiary or medically appropriate? ☒ Yes ☐ No

- Are such examinations performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) where possible? ☒ Yes ☐ No

- If SAFEs or SANEs cannot be made available, is the examination performed by other qualified medical practitioners (they must have been specifically trained to conduct sexual assault forensic exams)? ☒ Yes ☐ No

- Has the agency documented its efforts to provide SAFEs or SANEs? ☒ Yes ☐ No

115.21 (d)

- Does the agency attempt to make available to the victim a victim advocate from a rape crisis center? ☒ Yes ☐ No

- If a rape crisis center is not available to provide victim advocate services, does the agency make available to provide these services a qualified staff member from a community-based organization, or a qualified agency staff member? ☒ Yes ☐ No

- Has the agency documented its efforts to secure services from rape crisis centers? ☒ Yes ☐ No

115.21 (e)

- As requested by the victim, does the victim advocate, qualified agency staff member, or qualified community-based organization staff member accompany and support the victim through the forensic medical examination process and investigatory interviews? ☒ Yes ☐ No

- As requested by the victim, does this person provide emotional support, crisis intervention, information, and referrals? ☒ Yes ☐ No

115.21 (f)

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

115.21 (g)

- Auditor is not required to audit this provision.

115.21 (h)

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

Auditor Overall Compliance Determination

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

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

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

(a) Department Operations Manual, Chapter 5, Article 44, section 54040.8.1 *(Evidence)* states, *"Care must be taken to ensure that any physical evidence is identified, preserved, and collected. Examples of evidence include, but are not limited to any clothing worn by the victim and suspect, hair or clothing fibers, dried or moist secretions, semen, blood or saliva stains, stained articles of clothing, blankets, or other foreign materials on the body of the victim or suspect, fingernail scrapings, and any other trace evidence (including the rape examination kit). Base on when/where the incident occurred, a designated evidence officer will be requested to collect evidence that may be destroyed if not preserved. The designated evidence officer and any other employee who collects evidence will process it according to institutional procedure."* CDCR correctional staff have peace officer status under California Penal Code 830.5, and are authorized and trained to conduct administrative and criminal investigations. Investigations are conducted by Locally Designated Investigators (LDIs). Department Operations Manual, Chapter 5, Article 44, section 54040.3 *(Definitions)* outlines that an LDI may be an Investigative Services Unit Investigator, or other designated institutional staff who have been trained to conduct investigations into allegations of sexual violence and/or staff sexual misconduct.

(b) LDIs receive specialized training on sexual abuse and sexual harassment investigations. This training is based off the April 2012 edition of *"A National Protocol for Sexual Assault Medical Forensic Examination",* published by the US Department of Justice. There are no youth housed at VSP. Interviews with LDIs and random staff indicated they are knowledgeable on obtaining usable physical evidence.

(c) Department Operations Manual, Chapter 5, Article 44, section 54040.9 *(Forensic Medical Examination)* states, *"In accordance with DOM Sections 54040.12.1 and 54040.12.2, the victim will be taken to the designated outside hospital, or on-site location, where SART Contract Staff will complete the forensic exam. The SANE shall provide the required Forensic Medical Examination, per the Office of Emergency Services, as well as the appropriate Forensic Medical Report…These examinations will consist of an explanation of the process, the offender's signature on consent forms (some offenders will require assistance to explain the consent forms prior to signing them), discussion of the incident and when/how it occurred, and a detailed physical examination that will include evidence collection and photographs."* California Correctional Health Care Services has written directives in its Governance and Administration stating that copayments are not charged for health care service(s) considered to be treatment services relating to sexual abuse or assault. This auditor reviewed Forensic Medical Reports related to incarcerated survivors at VSP. All reports were documented by SANE providers. The auditor interviewed the Statewide SANE Coordinator, who stated that there is always a SANE on duty at CRMC, but if one were not available, the hospital would contact her directly to respond. There was no documentation to suggest that forensic medical examinations had ever been provided on-site or by someone other than a SANE. The pre-audit questionnaire indicated three incarcerated survivors received forensic medical examinations in

the past 12 months. The auditor was unable to conduct interviews with any incarcerated survivors who received forensic medical exams, as they were no longer housed at VSP.

(d-e) CDCR has entered into a signed Memorandum of Understanding (MOU) with Community Action Partnership of Madera County, Incorporated (CAPMC) to provide confidential community-based advocacy services to incarcerated survivors of sexual abuse at VSP. The term of agreement expires June 30, 2019. CAPMC is a public non-profit 501(c)(3) organization in California, providing comprehensive sexual assault recovery services for sexual abuse victims and their families. CAPMC is not part of a governmental unit. All of their services are bilingual and bi-cultural. The MOU states CAPMC will provide emotional support services related to sexual abuse in response to request from incarcerated survivors through one or more of the following methods: non-confidential regular inmate telephone calls to CAPMC's hotline; confidential written correspondence to and from victim advocates; in-person crisis counseling sessions with incarcerated survivors, or meetings arranged by the PCM; and/or telephone calls to CAPMC arranged through a CSP chaplain, counselor, psychologist or Investigations Services Unit staff, assuming resources and scheduling allows.

(f-g) CDCR correctional staff have peace officer status under California Penal Code 830.5, and are authorized and trained to conduct administrative and criminal investigations.

(h) CDCR and VSP do not utilize qualified agency staff members in an advocacy capacity.

Standard 115.22: Policies to ensure referrals of allegations for investigations

115.22 (a)

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

115.22 (b)

- Does the agency have a policy and practice in place to ensure that allegations of sexual abuse or sexual harassment are referred for investigation to an agency with the legal authority to conduct criminal investigations, unless the allegation does not involve potentially criminal behavior? ☒ Yes ☐ No
- Has the agency published such policy on its website or, if it does not have one, made the policy available through other means? ☒ Yes ☐ No
- Does the agency document all such referrals? ☒ Yes ☐ No

115.22 (c)

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

115.22 (d)

- Auditor is not required to audit this provision.

115.22 (e)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

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

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

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

(a-b) Department Operations Manual, Chapter 5, Article 44, section 54040.12 *(Investigation)* states, *"All allegations of sexual violence, staff sexual misconduct, and sexual harassment shall be investigated and the findings documented in writing."* Allegations of inmate on inmate sexual abuse and sexual harassment are reported through the Watch Commander at VSP, and investigated by a member of the Investigative Services Unit (ISU). Substantiated allegations are referred to the District Attorney to make a determination on prosecution. The collection of preliminary information concerning an investigation of staff sexual abuse or sexual harassment is conducted by ISU. If allegations are found to have potentially occurred, ISU refers the case to the Office of Internal Affairs (OIA), an entity within CDCR with authority to investigate all staff misconduct allegations. The OIA completes the investigation and works with the District Attorney to make a determination on prosecuting the perpetrator. While onsite, the auditor reviewed 29 investigative files, to ensure investigations were completed for allegations of sexual abuse and sexual harassment. Three cases were currently pending prosecution. Interviews with LDI and ISU staff indicated they are knowledgeable of the process for case referral. The interview of CDCR Director Kathleen Allison indicated she is committed to creating a sexually safe environment for all inmates, and has an established relationship with agency investigators to ensure allegations are referred and investigated properly.

(c) This subsection of the standard is not applicable to CDCR/VSP, as all investigations are completed by ISU or OIA.

(d) Department Operations Manual, Chapter 5, Article 44 governs the conduct of administrative and criminal investigations of sexual abuse and sexual harassment, and this policy is available on the agency's website.

(e) This subsection of the standard is not applicable to CDCR/VSP, as all investigations are completed by ISU or OIA.

TRAINING AND EDUCATION

Standard 115.31: Employee training

115.31 (a)

- Does the agency train all employees who may have contact with inmates on its zero-tolerance policy for sexual abuse and sexual harassment? ☒ Yes ☐ No
- Does the agency train all employees who may have contact with inmates on how to fulfill their responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures? ☒ Yes ☐ No
- Does the agency train all employees who may have contact with inmates on inmates' right to be free from sexual abuse and sexual harassment ☒ Yes ☐ No
- Does the agency train all employees who may have contact with inmates on the right of inmates and employees to be free from retaliation for reporting sexual abuse and sexual harassment? ☒ Yes ☐ No
- Does the agency train all employees who may have contact with inmates on the dynamics of sexual abuse and sexual harassment in confinement? ☒ Yes ☐ No
- Does the agency train all employees who may have contact with inmates on the common reactions of sexual abuse and sexual harassment victims? ☒ Yes ☐ No
- Does the agency train all employees who may have contact with inmates on how to detect and respond to signs of threatened and actual sexual abuse? ☒ Yes ☐ No
- Does the agency train all employees who may have contact with inmates on how to avoid inappropriate relationships with inmates? ☒ Yes ☐ No
- Does the agency train all employees who may have contact with inmates on how to communicate effectively and professionally with inmates, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming inmates? ☒ Yes ☐ No
- Does the agency train all employees who may have contact with inmates on how to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities? ☒ Yes ☐ No

115.31 (b)

- Is such training tailored to the gender of the inmates at the employee's facility? ☒ Yes ☐ No

- Have employees received additional training if reassigned from a facility that houses only male inmates to a facility that houses only female inmates, or vice versa? ☒ Yes ☐ No

115.31 (c)

- Have all current employees who may have contact with inmates received such training? ☒ Yes ☐ No

- Does the agency provide each employee with refresher training every two years to ensure that all employees know the agency's current sexual abuse and sexual harassment policies and procedures? ☒ Yes ☐ No

- In years in which an employee does not receive refresher training, does the agency provide refresher information on current sexual abuse and sexual harassment policies? ☒ Yes ☐ No

115.31 (d)

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

Auditor Overall Compliance Determination

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

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

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

(a) Department Operations Manual, Chapter 5, Article 44, section 54040.4 (*Staff Training*) 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 training, and will be included in the curriculum of the Correctional Training Academy."* This auditor reviewed all curriculum noted in the policy to ensure a comprehensive training program that provides detailed information on all ten required elements.

(b) Department Operations Manual, Chapter 5, Article 44, section 54040.4 (*Staff Training*) states, *"The training will be gender specific based on the offender population at the assigned institution."* The curriculum provided by CDCR is gender specific and includes information on working with female, male and transgender inmates.

(c) VSP Warden Fisher provided this auditor with a memorandum certifying that all custody and non-custody staff and volunteers have completed PREA training, with the exception of 15 staff that are on extended medical

leave. Those on extended medical leave will receive the training upon their return to duty. While onsite, the auditor reviewed a random sample of employee training records to verify training. Interviews with randomly selected staff indicate they are aware of the agency's zero-tolerance policy, their responsibilities and inmate rights with regard to PREA, as well as interacting professionally and communicating effectively with LGBTI and gender nonconforming inmates.

(d) Both electronic and written signatures are maintained of training delivery, verifying that employees understand the information they received.

Standard 115.32: Volunteer and contractor training

115.32 (a)

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

115.32 (b)

- Have all volunteers and contractors who have contact with inmates been notified of the agency's zero-tolerance policy regarding sexual abuse and sexual harassment and informed how to report such incidents (the level and type of training provided to volunteers and contractors shall be based on the services they provide and level of contact they have with inmates)? ☒ Yes ☐ No

115.32 (c)

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

Auditor Overall Compliance Determination

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

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

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

(a) Department Operations Manual, Chapter 5, Article 44, section 54040.4 (*Staff Training*) 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 training, and will be included in the curriculum of the Correctional Training Academy."* In addition, volunteers and contractors receive a PREA informational sheet that outlines the historical perspective of PREA, CDCR's zero tolerance policy, expectations

regarding professional interactions and how to prevent, detect and respond to information regarding sexual abuse and sexual harassment.

(b) All volunteer and contractors are provided one hour of mandatory training, to aid staff in understanding the dynamics of establishing positive, professional interactions with inmates in the performance of their duties. Although all volunteers and contractors are required to complete the same training, staff that have more contact with inmates or little to no supervision by custody staff are mandated to complete more extensive training.

Interviews with volunteers and contractors indicated they understand and apply this training in their interactions with inmates.

(c) The PREA informational sheet provided to volunteers and contractors includes a place for signature, indicating they have read the information and understand their responsibility to immediately report any information that indicates an offender is or has been the victim of sexual violence, staff sexual misconduct or sexual harassment. While onsite, this auditor reviewed a random sample of volunteer and contractor files to ensure documentation was retained.

Standard 115.33: Inmate education

115.33 (a)

- During intake, do inmates receive information explaining the agency's zero-tolerance policy regarding sexual abuse and sexual harassment? ☒ Yes ☐ No

- During intake, do inmates receive information explaining how to report incidents or suspicions of sexual abuse or sexual harassment? ☒ Yes ☐ No

115.33 (b)

- Within 30 days of intake, does the agency provide comprehensive education to inmates either in person or through video regarding: Their rights to be free from sexual abuse and sexual harassment? ☒ Yes ☐ No

- Within 30 days of intake, does the agency provide comprehensive education to inmates either in person or through video regarding: Their rights to be free from retaliation for reporting such incidents? ☒ Yes ☐ No

- Within 30 days of intake, does the agency provide comprehensive education to inmates either in person or through video regarding: Agency policies and procedures for responding to such incidents? ☒ Yes ☐ No

115.33 (c)

- Have all inmates received such education? ☒ Yes ☐ No

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

115.33 (d)

- Does the agency provide inmate education in formats accessible to all inmates including those who are limited English proficient? ☒ Yes ☐ No

- Does the agency provide inmate education in formats accessible to all inmates including those who are deaf? ☒ Yes ☐ No

- Does the agency provide inmate education in formats accessible to all inmates including those who are visually impaired? ☒ Yes ☐ No

- Does the agency provide inmate education in formats accessible to all inmates including those who are otherwise disabled? ☒ Yes ☐ No

- Does the agency provide inmate education in formats accessible to all inmates including those who have limited reading skills? ☒ Yes ☐ No

115.33 (e)

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

115.33 (f)

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

Auditor Overall Compliance Determination

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

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

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

(a) Department Operations Manual, Chapter 5, Article 44, section 54040.4 (*Offender Training*) states, "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." PREA posters, containing departmental policy and reporting telephone numbers are posted at designated locations throughout the institution, to include receiving and release areas. Two PREA brochures (*"Sexual Violence Awareness" and "Sexual Abuse/Assault – Prevention and Intervention")* are distributed to all inmates at receiving and release areas. These brochures outline CDCR's no tolerance policy, and provides information on how to report by telephone, in writing and anonymously.

(b) The written informational resources provided upon arrival to VSP are provided again by the inmate's counselor within 14 days. Receipt of this information, is documented on the CDCR-128-B form.

(c) In October 2015, VSP modified operations to administer flu shots to the entire population. During that time, a copy of the PREA Information for Orientation Handbook was distributed to all inmates. Copies were made available in both English and Spanish. The handbook contained information on the agency's zero tolerance policy, how to reports incidents of sexual abuse or sexual harassment, the right to be free from retaliation for reporting, and agency policy and procedures for responding to such incidents. The facility PCM provided this auditor with written documentation of the information distribution, along with the current tracking mechanism to ensure inmate education is dispersed in a timely manner.

(d) Appropriate provisions are made to ensure effective communication for offenders not fluent in English, those with low literacy levels, and persons with disabilities. When an inmate's Test of Adult Basic Education score is 4.0 or lower, employees are required to query the inmate to determine whether or not assistance is needed to achieve effective communication. The employee is required to document on CDCR-128-B forms his/her determination of whether the inmate appeared to understand, the basis for that determination and how it was made. If the inmate requires other accommodation for understanding educational material, the counselor will make arrangements to provide it. Interviews with random inmates indicated they are aware of PREA and the agency's zero-tolerance policy.

(e) Documentation of inmate education is captured on CDCR-128-B forms, signed by the inmate and an employee, and retained in the inmate's file. While onsite, this auditor reviewed a random sample of inmate files to ensure proper documentation.

(f) Written information about PREA is readily available to inmates through the use of inmate handbooks, as well as posters in housing units and common areas of the facility.

Standard 115.34: Specialized training: Investigations

115.34 (a)

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

115.34 (b)

- Does this specialized training include techniques for interviewing sexual abuse victims? [N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.21(a).] ☒ Yes ☐ No ☐ NA

- Does this specialized training include proper use of Miranda and Garrity warnings? [N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.21(a).] ☒ Yes ☐ No ☐ NA

- Does this specialized training include sexual abuse evidence collection in confinement settings? [N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.21(a).] ☒ Yes ☐ No ☐ NA

- Does this specialized training include the criteria and evidence required to substantiate a case for administrative action or prosecution referral? [N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.21(a).] ☒ Yes ☐ No ☐ NA

115.34 (c)

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

115.34 (d)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

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

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

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

(a) CDCR correctional staff have peace officer status under California Penal Code 830.5, and are authorized and trained to conduct administrative and criminal investigations. Investigations are conducted by Locally Designated Investigators (LDIs). Department Operations Manual, Chapter 5, Article 44, section 54040.3 *(Definitions)* outlines that an LDI may be an Investigative Services Unit Investigator, or other designated institutional staff who have been trained to conduct investigations into allegations of sexual violence and/or staff sexual misconduct. This specialized training is required per California Penal Code 13516. Department Operations Manual, Chapter 5, Article 44, section 54040.4 (*Staff Training*) states, "*All employees who are assigned to investigate sexual violence and/or staff sexual misconduct will receive specialized training per PC section 13516(c). The curriculum utilized in the class must be OTPD [Office of Training and Professional Development] approved. The Hiring Authority or PREA Compliance Manager (PCM) shall ensure employees investigating incidents of sexual violence and/or staff sexual misconduct are properly trained.*"

(b) The auditor reviewed the curriculum utilized for CDCR's Basic Investigators Course, which was most recently updated in December 2016. The training includes instruction on interviewing sexual abuse victims, the proper use of Miranda and Garrity warnings, evidence collection in confinement settings, and the criteria and evidence required to substantiate a case for administrative action or prosecution referral. Interviews with LDIs at VSP indicated they were knowledgeable in each aspect of sexual abuse and sexual harassment investigations.

(c) VSP has 17 Locally Designated Investigators. The auditor reviewed training records for all 17 staff to ensure the required training was received.

(d) This subsection of the standard does not pertain to CDCR/VSP.

Standard 115.35: Specialized training: Medical and mental health care

115.35 (a)

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

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

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

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

115.35 (b)

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

115.35 (c)

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

115.35 (d)

- Do medical and mental health care practitioners employed by the agency also receive training mandated for employees by §115.31? ☒ Yes ☐ No

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

Auditor Overall Compliance Determination

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

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

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

(a) Department Operations Manual, Chapter 5, Article 44, section 54040.4 (*Staff Training*) 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 training, and will be included in the curriculum of the Correctional Training Academy."* This auditor reviewed all curriculum noted in the policy to ensure a comprehensive training program that provides detailed information on how to detect and assess signs of sexual abuse and sexual harassment; how to preserve physical evidence of sexual abuse; how to respond effectively and professionally to victims of sexual abuse and sexual harassment; and how and to whom to report

allegations or suspicions of sexual abuse and sexual harassment. Interviews with medical and mental health staff indicated they were knowledgeable of the required elements.

(b) As the agency does not employ medical staff to conduct forensic medical examinations, this subsection of the standard does not apply. Incarcerated survivors of sexual abuse are transported offsite to Community Regional Medical Center for forensic medical examinations.

(c) While onsite, this auditor reviewed a random sample of employee files to ensure they contained training documentation.

(d) In addition to the PREA training provided to all employees, medical and mental health staff receive additional training specific to their responsibilities with PREA. This auditor reviewed the training module to ensure it provided detailed information on how to detect and assess signs of sexual abuse and sexual harassment; how to preserve physical evidence of sexual abuse; how to respond effectively and professionally to victims of sexual abuse and sexual harassment; and how and to whom to report allegations or suspicions of sexual abuse and sexual harassment. Interviews of staff indicated they have received the training and are knowledgeable of the required elements.

SCREENING FOR RISK OF SEXUAL VICTIMIZATION AND ABUSIVENESS

Standard 115.41: Screening for risk of victimization and abusiveness

115.41 (a)

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

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

115.41 (b)

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

115.41 (c)

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

115.41 (d)

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (1) whether the inmate has a mental, physical, or developmental disability? ☒ Yes ☐ No

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (2) the age of the inmate? ☒ Yes ☐ No

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (3) the physical build of the inmate? ☒ Yes ☐ No

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (4) whether the inmate has previously been incarcerated? ☒ Yes ☐ No

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (5) whether the inmate's criminal history is exclusively nonviolent? ☒ Yes ☐ No

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (6) whether the inmate has prior convictions for sex offenses against an adult or child? ☒ Yes ☐ No

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (7) Whether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming (the facility affirmatively asks the inmate about his/her sexual orientation and gender identity AND makes a subjective determination based on the screener's perception whether the inmate is gender non-conforming or otherwise may be perceived to be LGBTI)? ☒ Yes ☐ No

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (8) whether the inmate has previously experienced sexual victimization? ☒ Yes ☐ No

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (9) the inmate's own perception of vulnerability? ☒ Yes ☐ No

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (10) whether the inmate is detained solely for civil immigration purposes? ☒ Yes ☐ No

115.41 (e)

- In assessing inmates for risk of being sexually abusive, does the initial PREA risk screening consider, when known to the agency: prior acts of sexual abuse? ☒ Yes ☐ No

- In assessing inmates for risk of being sexually abusive, does the initial PREA risk screening consider, when known to the agency: prior convictions for violent offenses? ☒ Yes ☐ No

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

115.41 (f)

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

115.41 (g)

- Does the facility reassess an inmate's risk level when warranted due to a: Referral? ☒ Yes ☐ No

- Does the facility reassess an inmate's risk level when warranted due to a: Request? ☒ Yes ☐ No

- Does the facility reassess an inmate's risk level when warranted due to a: Incident of sexual abuse? ☒ Yes ☐ No

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

115.41 (h)

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

115.41 (i)

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

Auditor Overall Compliance Determination

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

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

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

(a-e) Department Operations Manual, Chapter 5, Article 44, section 54046.5 (*Initial Screening*) states, "*Upon arrival at an institution reception center, a program institution, or an ASU or SHU, an inmate shall be screened for an appropriate housing assignment."* The screening requires an assessment of available information, a review of the inmate's file and an interview with the inmate. Screening staff are required to review prior in-cell behavior towards a cell partner, any history of in-cell sexual abuse, assaults, or sexual abuse victimization. Screening staff complete the Strategic Offender Management System (SOMS) Initial Housing Review (IHR). SOMS includes an electronic PREA screening form that contains all ten considerations to assess an inmate's risk for sexual victimization as described in the standard. A second part of the PREA screening form assesses an inmate's risk of sexual abusiveness. Inmates are identified as *"at risk as a victim", "at risk as an abuser"* or *"not identified as a risk".* Based on information that the inmate has been a victim of sexual violence or victimization, the custody supervisor conducting the initial screening shall discuss housing alternatives with the inmate and consideration will be given to housing the inmate with another inmate who has compatible housing needs. If it is determined that a single cell is the most suitable option, the custody supervisor will designate the inmate for single cell housing pending a classification review. When inmates are cleared for and assigned to dorm housing, the custody supervisor will assign inmates identified as *"at risk as a victim"* to a location close to the staff office or podium. Use of the electronic screening form was implemented on August 28, 2017. In order to ensure all inmates received a PREA screening within one year of implementation, VSP initiated a one-time "catch up" process, requiring all correctional counselors to complete a screening tool for any inmate without one currently in their file during their next classification review.

(f)The Unit Classification Committee meets with each inmate within 14 days of arrival at VSP. During that review, the inmate is asked if there if any new information or concerns about PREA since his arrival.

(g) Risk levels are reassessed by the Unit Classification Committee when warranted due to a referral, request, incident of sexual abuse, or receipt of additional information that bears on the inmate's risk of sexual victimization or abusiveness.

(h) Per policy, inmates may 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. Interviews with staff who conduct risk screening indicated that if an inmate refused to answer questions, they would complete the screening with information otherwise available to them. There were no interviews of inmates that indicated they had been disciplined for refusing to answer screening questions.

(i) Classification decisions are noted on a *"result sheet"* and distributed to facility staff on a need-to-know basis. Department Operations Manual, Chapter 5, Article 44, section 54040.3 *(Definitions)* defines need-to-know as when the information is *"relevant and necessary in the ordinary performance of that employee's official duties".*

Standard 115.42: Use of screening information

115.42 (a)

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

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

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

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

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

115.42 (b)

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

115.42 (c)

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

- When making housing or other program assignments for transgender or intersex inmates, does the agency consider on a case-by-case basis whether a placement would ensure the inmate's health and safety, and whether a placement would present management or security problems? ☒ Yes ☐ No

115.42 (d)

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

115.42 (e)

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

115.42 (f)

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

115.42 (g)

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

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

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

Auditor Overall Compliance Determination

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

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

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

(a) As part of an inmate's review with the Unit Classification Committee, the committee chairperson will review the completed PREA screening tool with the inmate and ask if he has any additional relevant information that should be considered for future housing, program or work assignments. The chairperson notes if the inmate feels the current assignments are appropriate, or if there is additional information or concerns. If additional information is provided by the inmate, the chairperson notes the information and the action taken in response to the information. If the inmate does not have additional information, but expresses concerns or has special needs related to assignments, the chairperson notes the concerns and the action taken in response to the concerns. The audit team interviewed custody staff and work assignment supervisors to determine if inmates at risk of being victimization were appropriately placed and supervised. When the audit team toured work and program locations, they noted that security mirrors had been placed in multiple areas of each location to ensure there were no blind spots.

(b) Through the use of the Unit Classification Committee, CDCR and VSP make individualized determinations about how to ensure each inmate in their custody is safe.

(c) Department Operations Manual, Chapter 5, Article 12, section 62080.14 (*Transgendered [sic] Inmates*) states, *"Inmate who have been diagnosed as transgendered [sic], as documented on the CDCR Form 128-C3, shall be referred to a classification committee for review of all case factors and determination of appropriate institutional placement and housing assignment."* In order to ensure transgender inmates receive the necessary medical care/mental health treatment, CDCR has identified 11 facilities for *"male-to-female inmate-patients"* and two facilities for *"female-to-male inmate-patients"*. VSP is not identified by policy or practice as an appropriate location for transgender inmates. The policy states, *"In cases where an inmate-patient has multiple case factors which make it difficult to house them in one of the above listed institutions, a case conference consisting of Health Care Placement Oversight Program, Classification Services Unit, California Correctional Health Care Services, and Population Management Unit staff, shall be conducted to determine the most appropriate level of care/institution suitable for housing consistent with the inmate-patient's case factors."* This auditor would recommend revising policy text to replace the word "transgendered" with "transgender", as it can be considered offensive when used as a noun.

(d-e) During the audit review period, two inmates identified as transgender after their arrival at VSP. Inmate A arrived in December 2015, identified as transgender in August 2017, was assessed and subsequently transferred to a more appropriate facility in September 2017. Inmate B arrived in July 2016, identified as transgender in August 2017, was assessed and transferred to a more appropriate facility later the same month. Neither inmate was at VSP long enough to warrant the required review of placement, programming or any threats to safety. There were no inmates at VSP who identified as intersex.

(f) The shower areas of the facility have appropriate barriers and would provide for a transgender or intersex inmate to shower separately.

(g) According to the PCM, VSP is not subject to a consent decree, legal settlement, or legal judgement for protecting LGBTI inmates, and does not place those inmates in dedicated facilities, units, or wings solely based on such identification.

Standard 115.43: Protective Custody

115.43 (a)

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

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

115.43 (b)

- Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Programs to the extent possible? ☒ Yes ☐ No

- Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Privileges to the extent possible? ☒ Yes ☐ No

- Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Education to the extent possible? ☒ Yes ☐ No

- Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Work opportunities to the extent possible? ☒ Yes ☐ No

- If the facility restricts access to programs, privileges, education, or work opportunities, does the facility document: The opportunities that have been limited? ☒ Yes ☐ No

- If the facility restricts access to programs, privileges, education, or work opportunities, does the facility document: The duration of the limitation? ☒ Yes ☐ No

- If the facility restricts access to programs, privileges, education, or work opportunities, does the facility document: The reasons for such limitations? ☒ Yes ☐ No

115.43 (c)

- Does the facility assign inmates at high risk of sexual victimization to involuntary segregated housing only until an alternative means of separation from likely abusers can be arranged? ☒ Yes ☐ No

- Does such an assignment not ordinarily exceed a period of 30 days? ☒ Yes ☐ No

115.43 (d)

- If an involuntary segregated housing assignment is made pursuant to paragraph (a) of this section, does the facility clearly document: The basis for the facility's concern for the inmate's safety? ☒ Yes ☐ No

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

115.43 (e)

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

Auditor Overall Compliance Determination

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

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

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

By CDCR policy, employees have a responsibility to protect the offenders in their custody. All staff are required to immediately report any information that indicates an offender is being, or has been the victim of sexual violence, staff sexual misconduct or sexual harassment to the appropriate supervisor. Department Operations Manual, Chapter 5, Article 44, section 54040.6 (Offender Housing) states, *"Offenders at high risk for sexual victimization, as identified on the electronic Initial Housing Review, shall not be placed in segregated housing unless an assessment of all available alternatives has been completed, and a determination has been made that there is no available alternative means of separation from likely abusers. Offenders at high risk for sexual victimization shall have a housing assessment completed immediately or within 24 hours of placement into segregated housing. If temporary segregation is required, the inmate shall be issued an Administrative Segregation Placement Notice, explaining the reason for segregation is the need to complete a housing assessment based on the high risk for sexual victimization."* While onsite, this auditor reviewed housing records of those inmates designated to be at high risk of sexual victimization, and confirmed that none had been assigned to protective custody housing. There were no inmate interviews that indicated this had been done in the past.

REPORTING

Standard 115.51: Inmate reporting

115.51 (a)

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

115.51 (b)

- Does the agency also provide at least one way for inmates to report sexual abuse or sexual harassment to a public or private entity or office that is not part of the agency? ☒ Yes ☐ No
- Is that private entity or office able to receive and immediately forward inmate reports of sexual abuse and sexual harassment to agency officials? ☒ Yes ☐ No
- Does that private entity or office allow the inmate to remain anonymous upon request? ☒ Yes ☐ No
- Are inmates detained solely for civil immigration purposes provided information on how to contact relevant consular officials and relevant officials at the Department of Homeland Security? ☒ Yes ☐ No

115.51 (c)

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

115.51 (d)

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

Auditor Overall Compliance Determination

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

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

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

(a) CDCR inmates have multiple internal mechanisms for reporting, to include providing the information verbally or in writing to any staff member, contractor or volunteer; calling the Office of Internal Affairs; calling or writing the Office of the Inspector General; by utilizing the Inmate Appeals Process; or, requesting a family member or friend report on their behalf. This information is available to inmates through postings throughout the facility and orientation information provided upon arrival to VSP. This information is provided in English and Spanish. Appropriate provisions are made to ensure effective communication for inmates with low literacy levels, and those with disabilities. Interviews with inmates indicated they are aware of the multiple mechanisms for reporting. A review of documentation and interviews with staff indicated that inmates are using these mechanisms to report allegations.

(b) The "Sexual Violence Awareness" and "Sexual Abuse/Assault – Prevention and Intervention" PREA brochures indicate that inmates may request to keep their name anonymous when reporting to the Office of the Inspector General. VSP does not have any inmates detained solely for civil immigration purposes.

(c) Department Operations Manual, Chapter 5, Article 44, section 54040.7 *(Detection, Notification, and Reporting)* states, *"Offenders may report violations of this policy to any staff member verbally or in writing, utilizing the Inmate Appeals Process, through the sexual assault hotline, or through a third party."* Any employee receiving information from any source is required to immediately report the information or incident directly to the hiring authority, unit supervisor, or highest-ranking official on duty. Failure to accurately and promptly report may subject the employee who failed to report it to disciplinary action. Interviews with staff indicated they are aware of this responsibility. Documentation review and interviews with inmates did not indicate any reports had not been accepted when placed verbally, in writing, anonymously or by third parties.

(d) VSP staff, volunteers and contractors can report sexual abuse and sexual harassment privately to any supervisor. Interviews with staff, volunteers and contractors did not indicate that any person had concerns with regards to private reporting mechanisms and that they felt comfortable reporting.

Standard 115.52: Exhaustion of administrative remedies

115.52 (a)

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

115.52 (b)

- Does the agency permit inmates to submit a grievance regarding an allegation of sexual abuse without any type of time limits? (The agency may apply otherwise-applicable time limits to any portion of a grievance that does not allege an incident of sexual abuse.) (N/A if agency is exempt from this standard.) ☒ Yes ☐ No ☐ NA

- Does the agency always refrain from requiring an inmate to use any informal grievance process, or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse? (N/A if agency is exempt from this standard.) ☒ Yes ☐ No ☐ NA

115.52 (c)

- Does the agency ensure that: An inmate who alleges sexual abuse may submit a grievance without submitting it to a staff member who is the subject of the complaint? (N/A if agency is exempt from this standard.) ☒ Yes ☐ No ☐ NA

- Does the agency ensure that: Such grievance is not referred to a staff member who is the subject of the complaint? (N/A if agency is exempt from this standard.) ☒ Yes ☐ No ☐ NA

115.52 (d)

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

- If the agency claims the maximum allowable extension of time to respond of up to 70 days per 115.52(d)(3) when the normal time period for response is insufficient to make an appropriate decision, does the agency notify the inmate in writing of any such extension and provide a date by which a decision will be made? (N/A if agency is exempt from this standard.)
  ☒ Yes ☐ No ☐ NA

- At any level of the administrative process, including the final level, if the inmate does not receive a response within the time allotted for reply, including any properly noticed extension, may an inmate consider the absence of a response to be a denial at that level? (N/A if agency is exempt from this standard.) ☒ Yes ☐ No ☐ NA

115.52 (e)

- Are third parties, including fellow inmates, staff members, family members, attorneys, and outside advocates, permitted to assist inmates in filing requests for administrative remedies relating to allegations of sexual abuse? (N/A if agency is exempt from this standard.)
  ☒ Yes ☐ No ☐ NA

- Are those third parties also permitted to file such requests on behalf of inmates? (If a third-party files such a request on behalf of an inmate, the facility may require as a condition of processing the request that the alleged victim agree to have the request filed on his or her behalf, and may also require the alleged victim to personally pursue any subsequent steps in the administrative remedy process.) (N/A if agency is exempt from this standard.) ☒ Yes ☐ No ☐ NA

- If the inmate declines to have the request processed on his or her behalf, does the agency document the inmate's decision? (N/A if agency is exempt from this standard.)
  ☒ Yes ☐ No ☐ NA

115.52 (f)

- Has the agency established procedures for the filing of an emergency grievance alleging that an inmate is subject to a substantial risk of imminent sexual abuse? (N/A if agency is exempt from this standard.) ☒ Yes ☐ No ☐ NA

- After receiving an emergency grievance alleging an inmate is subject to a substantial risk of imminent sexual abuse, does the agency immediately forward the grievance (or any portion thereof that alleges the substantial risk of imminent sexual abuse) to a level of review at which immediate corrective action may be taken? (N/A if agency is exempt from this standard.).
  ☒ Yes ☐ No ☐ NA

- After receiving an emergency grievance described above, does the agency provide an initial response within 48 hours? (N/A if agency is exempt from this standard.) ☒ Yes ☐ No ☐ NA

- After receiving an emergency grievance described above, does the agency issue a final agency decision within 5 calendar days? (N/A if agency is exempt from this standard.)
  ☒ Yes ☐ No ☐ NA

- Does the initial response and final agency decision document the agency's determination whether the inmate is in substantial risk of imminent sexual abuse? (N/A if agency is exempt from this standard.) ☒ Yes ☐ No ☐ NA

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

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

115.52 (g)

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

Auditor Overall Compliance Determination

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

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

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

CDCR is not exempt from this standard, as they have administrative procedures in place to address inmate grievances regarding sexual abuse. Department Operations Manual, Chapter 5, Article 8, section 3084.9 *(Exceptions to the Regular Appeal Process)* states that both staff sexual misconduct and inmate-on-inmate sexual violence is not subject to time limits, and are processed on an emergency basis. A risk assessment determination must be immediately completed to determine if the inmate is in substantial risk of imminent sexual violence, and if so, immediate corrective action must be taken. All PREA-related grievances are considered *"emergency appeals"* and require a response within 48 hours.

Department Operations Manual, Chapter 5, Article 8, section 3084.9 *(Exceptions to the Regular Appeal Process)* states, "An inmate or parolee alleging staff misconduct by a departmental employee shall forward the appeal to the appeals coordinator." The complaint is reviewed by the appeals coordinator and hiring authority, and referred to the Office of Internal Affairs if warranted. The pre-audit questionnaire indicated that VSP has had four inmate grievances concerning PREA within the last year. All four were completed and a final decision was made within the 90-day period.

Department Operations Manual, Chapter 5, Article 44, section 54040.7.2 *(Notification via Third Party Reporting of Misconduct Against an Employee, Contractor, or Volunteer)* allows a third party to file complaints on behalf of an inmate. The term *"third party"* is defined in this section as including *"inmates, family members, attorneys or outside advocates".* When a third party files a complaint on behalf of an inmate, a supervisory employee will take the alleged victim to a private setting to discuss the complaint and assess immediate housing needs. Third party reports are documented and forwarded to the hiring authority, who will forward the complaint to a Locally Designated Investigator to conduct inquiry work and determine if the report warrants an Office of Internal Affairs investigation. This auditor reviewed one report of an allegation filed by one inmate on behalf of another inmate in this manner to determine an investigation had been completed, it was processed in a timely manner and appropriate action had been taken.

Department Operations Manual, Chapter 5, Article 44, section 54040.15.1 (Alleged Victim – False Allegations) states, *"Following the investigation into sexual violence, or staff sexual misconduct, if it is determined that the allegations were made not in good faith or based upon a reasonable belief that the alleged conduct occurred, the offender making the allegations may be subject to a disciplinary action. A charge of 'making a false report of a crime,' a Division 'E' offense, is appropriate only if evidence received indicates the offender knowingly made a*

false report. An allegation deemed unsubstantiated or unfounded based on lack of evidence, does not constitute false reporting." The VSP PCM submitted a written memorandum to this auditor indicating that VSP did not have any dispositions related to false allegations within the reporting period. Interviews with inmates did not indicate any had been subject to discipline for false reporting or filing a PREA-related grievance.

Standard 115.53: Inmate access to outside confidential support services

115.53 (a)

- Does the facility provide inmates with access to outside victim advocates for emotional support services related to sexual abuse by giving inmates mailing addresses and telephone numbers, including toll-free hotline numbers where available, of local, State, or national victim advocacy or rape crisis organizations? ☒ Yes ☐ No

- Does the facility provide persons detained solely for civil immigration purposes mailing addresses and telephone numbers, including toll-free hotline numbers where available of local, State, or national immigrant services agencies? ☒ Yes ☐ No

- Does the facility enable reasonable communication between inmates and these organizations and agencies, in as confidential a manner as possible? ☒ Yes ☐ No

115.53 (b)

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

115.53 (c)

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

- Does the agency maintain copies of agreements or documentation showing attempts to enter into such agreements? ☒ Yes ☐ No

Auditor Overall Compliance Determination

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

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

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

CDCR has entered into a signed Memorandum of Understanding (MOU) with Community Action Partnership of Madera County, Incorporated (CAPMC) to provide confidential community-based advocacy services to incarcerated survivors of sexual abuse at VSP. The term of agreement expires June 30, 2019. CAPMC is a public non-profit 501(c)(3) organization in California, providing comprehensive sexual assault recovery services for sexual abuse victims and their families. CAPMC is not part of a governmental unit. All of their services are bilingual and bi-cultural. The MOU states CAPMC will provide emotional support services related to sexual abuse in response to request from incarcerated survivors through one or more of the following methods: non-confidential regular inmate telephone calls to CAPMC's hotline; confidential written correspondence to and from victim advocates; in-person crisis counseling sessions with incarcerated survivors, or meetings arranged by the PCM; and/or telephone calls to CAPMC arranged through a CSP chaplain, counselor, psychologist or Investigations Services Unit staff, assuming resources and scheduling allows.

CAPMC is not able to accept phone calls from incarcerated survivors through the inmate telephone system, as all calls are placed collect. Each housing unit at VSP had a posted "Additional Services for Victims of Sexual Abuse" near the inmate telephones. This posting indicates that inmates may write to a victim advocate at the local rape crisis center, and provides the address for CAPMC. The posting notifies inmates that written correspondence is considered privileged communication. The posting also lists a telephone number for CAPMC. This auditor attempted to place a call to the number from an inmate telephone, but was not connected. Interviews with inmates attempting to utilize the service through the inmate telephone system indicated they were unable to make contact as well. The PCM indicated the phone number is listed for inmates to provide to friends and family members, if they wish to make contact. It is not clear by the posting that inmate cannot call the number.

The written information provided to inmates, *"Sexual Violence Awareness" and "Sexual Abuse/Assault – Prevention and Intervention"* has a space for the address of the local rape crisis center, but no address listed. There is no information in either brochure that indicates the extent to which communication will be monitored or forwarded to authorities in accordance with mandatory reporting laws.

As part of corrective action, VSP modified the unit postings to omit the phone number for the confidential, community-based advocacy center. When the auditor returned to VSP on February 20, 2018, she verified the phone number had been removed. Both brochures, *"Sexual Violence Awareness" and "Sexual Abuse/Assault – Prevention and Intervention",* have been updated to include the address for written communication. This information has also been included in the *PREA Orientation Handbook*, and the provision that communication is confidential.

Standard 115.54: Third-party reporting

115.54 (a)

- Has the agency established a method to receive third-party reports of sexual abuse and sexual harassment? ☒ Yes ☐ No

- Has the agency distributed publicly information on how to report sexual abuse and sexual harassment on behalf of an inmate? ☒ Yes ☐ No

Auditor Overall Compliance Determination

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

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

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

Department Operations Manual, Chapter 5, Article 44, section 54040.7.2 *(Notification via Third Party Reporting of Misconduct Against an Employee, Contractor, or Volunteer)* allows a third party to file complaints on behalf of an inmate. The term *"third party"* is defined in this section as including *"inmates, family members, attorneys or outside advocates".* When a third party files a complaint on behalf of an inmate, a supervisory employee will take the alleged victim to a private setting to discuss the complaint and assess immediate housing needs. Third party reports are documented and forwarded to the hiring authority, who will forward the complaint to a Locally Designated Investigator to conduct inquiry work and determine if the report warrants an Office of Internal Affairs investigation.

There is a link on the CDCR webpage (https://www.cdcr.ca.gov/PREA/reporting.html) for information on the Prison Rape Elimination Act. The page provides an overview of PREA, agency policy, definitions, and PREA-related reports and audits. The website provides three ways to report incidents of sexual abuse.

OFFICIAL RESPONSE FOLLOWING AN INMATE REPORT

Standard 115.61: Staff and agency reporting duties

115.61 (a)

- Does the agency require all staff to report immediately and according to agency policy any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in a facility, whether or not it is part of the agency? ☒ Yes ☐ No

- Does the agency require all staff to report immediately and according to agency policy any knowledge, suspicion, or information regarding retaliation against inmates or staff who reported an incident of sexual abuse or sexual harassment? ☒ Yes ☐ No

- Does the agency require all staff to report immediately and according to agency policy any knowledge, suspicion, or information regarding any staff neglect or violation of responsibilities that may have contributed to an incident of sexual abuse or sexual harassment or retaliation? ☒ Yes ☐ No

115.61 (b)

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

115.61 (c)

- Unless otherwise precluded by Federal, State, or local law, are medical and mental health practitioners required to report sexual abuse pursuant to paragraph (a) of this section? ☒ Yes ☐ No

- Are medical and mental health practitioners required to inform inmates of the practitioner's duty to report, and the limitations of confidentiality, at the initiation of services? ☒ Yes ☐ No

115.61 (d)

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

115.61 (e)

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

Auditor Overall Compliance Determination

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

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

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

Department Operations Manual, Chapter 5, Article 44, section 54040.7 *(Detection, Notification, and Reporting)* states, *"CDCR employees have a responsibility to protect the offenders in their custody. All staff 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, staff sexual misconduct, or sexual harassment…Staff shall ensure the reporting of information is done as soon as possible and in a confidential manner."*

For at least 90 days following a report of sexual violence or staff sexual misconduct, the PCM monitors the conduct and treatment of inmates or employees who reported or cooperated with an investigation, to ensure there are no changes that may suggest retaliation. This monitoring is documented on form CDCR 2304. This auditor reviewed 29 investigative files, and each file contained the appropriate documentation to indicate the monitoring was occurring at VSP.

CDCR medical and mental health staff are required to report information regarding sexual abuse and sexual harassment. Interviews with those staff indicated they are aware of their responsibility. CDCR inmates sign an informed consent form prior to receiving services that states medical and mental health staff will report if inmates disclose they have been sexually assaulted or harassed by other inmates or staff. VSP does not house inmates under the age of 18, or those considered to be a vulnerable adult.

Standard 115.62: Agency protection duties

115.62 (a)

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

Auditor Overall Compliance Determination

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

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

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

Department Operations Manual, Chapter 5, Article 44, section 54040.7 *(Detection, Notification, and Reporting)* states, *"CDCR employees have a responsibility to protect the offenders in their custody. All staff 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, staff sexual misconduct, or sexual harassment…Staff shall ensure the reporting of information is done as soon as possible and in a confidential manner."*

This auditor reviewed the lesson plan for training staff on PREA, and confirmed it reiterates the expectation that staff take immediate action if an inmate is at *"substantial risk of imminent sexual abuse".* Interviews with specialized staff, random staff and random inmates did not indicate any immediate actions had been necessary. Staff were aware of the requirements if it were to be necessary.

Standard 115.63: Reporting to other confinement facilities

115.63 (a)

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

115.63 (b)

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

115.63 (c)

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

115.63 (d)

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

Auditor Overall Compliance Determination

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

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

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

Department Operations Manual, Chapter 5, Article 44, section 54040.7.4 *(Notification from/to Other Confinement Facilities)* states, *"Upon receiving an allegation that an offender was the victim of sexual violence or staff sexual misconduct while confined at another institution/confinement facility, the hiring authority where the allegation was received shall notify the hiring authority of the institution or appropriate office of the agency*

where the alleged sexual violence or staff sexual misconduct occurred. This initial notification shall be made via telephone contact or electronic mail and will be followed up with a written summary of the alleged victim's statements. Such initial notification shall be provided as soon as possible, but no later than 72 hours after receiving the allegation…The Hiring Authority or agency office receiving notification that an incident occurred at their institution, shall assign and ensure that the allegation is investigated and reported in accordance with DOM Section 54040.12. Upon completion, a closure report shall be returned to the institution where the alleged incident was reported."

Interviews with the warden, the PCM and ISU staff indicated that notifications to other confinement facilities are made from ISU to ISU or from the PCM to ISU. While onsite, this auditor reviewed eight investigative files that originated from a confinement notification to or from VSP, and none of the notifications were sent from facility head to facility head. Each allegation had been appropriately documented and investigated.

As part of corrective action, CDCR sent a written reminder to all facility Wardens and PREA Compliance Managers, reminding them of the requirement that allegations of sexual abuse in a prior confinement facility will be communicated from facility head to facility head. Valley State Prison provided the auditor with two examples of notifications received and/or sent during the Corrective Action Period, to verify the process is being utilized as required.

Standard 115.64: Staff first responder duties

115.64 (a)

- Upon learning of an allegation that an inmate was sexually abused, is the first security staff member to respond to the report required to: Separate the alleged victim and abuser?
  ☒ Yes ☐ No

- Upon learning of an allegation that an inmate was sexually abused, is the first security staff member to respond to the report required to: Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence? ☒ Yes ☐ No

- Upon learning of an allegation that an inmate was sexually abused, is the first security staff member to respond to the report required to: Request that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating, if the abuse occurred within a time period that still allows for the collection of physical evidence? ☒ Yes ☐ No

- Upon learning of an allegation that an inmate was sexually abused, is the first security staff member to respond to the report required to: Ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating, if the abuse occurred within a time period that still allows for the collection of physical evidence? ☒ Yes ☐ No

115.64 (b)

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

Auditor Overall Compliance Determination

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

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

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

Department Operations Manual, Chapter 5, Article 44, section 54040.8 *(Response)* states, *"Upon initial contact with an employee, that employee will take the alleged victim to a private secure location…The employee shall make every effort to ensure the victim does not: shower; remove clothing without custody supervision; use the restroom facilities and/or; consume any liquids."* CDCR has developed a form (*"Sexual Assault Interview Guidelines")* to assist with first responder duties. This form has a checklist to indicate if action has been taken that could compromise physical evidence, as well as identifying information critical for isolating a potential crime scene until appropriate steps can be taken to collect any evidence. This auditor reviewed training materials that indicated all staff are trained on first responder duties. CDCR has developed a form (*"Watch Commander Notification Checklist")* to ensure that appropriate actions are taken by the Watch Commander when there is an allegation of sexual assault. Interviews with custody and non-custody staff indicated they are aware of their duties as a first responder.

As part of corrective action, CDCR provided the auditor with a written assurance that the Department Operations Manual has been updated and in the agency approval process. Once signed off by Director Kathleen Allison, a Notice of Change will be provided statewide to all institutions.

Standard 115.65: Coordinated response

115.65 (a)

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

Auditor Overall Compliance Determination

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

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

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

VSP Operations Manual, Chapter 5, is a supplement to CDCR Department Operations Manual and outlines the facility's plan to coordinate actions taken in response to incidents involving suspected or alleged sexual assaults. This supplement clearly identifies the responsibilities of all staff involved, from first responders to medical and mental health services.

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

115.66 (a)

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

115.66 (b)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

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

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

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

CDCR employees are represented by the California Correctional Peace Officers Association, Bargaining Unit 6. This auditor reviewed the 2015-2018 Collective Bargaining Agreement (CBA). Page 23 of the CBA states that management retains the right to … *"establish and change work schedules, assignments and facilities locations; to hire, transfer, promote and demote employees; to lay off, terminate or otherwise relieve employees from duty for lack of work or other legitimate reasons; to suspend, discharge or discipline employees."* This auditor's

interview of the agency head indicated there is good communication between management and labor. The disciplinary and grievance process outlined in the CBA are consistent with the provisions of 115.72 and 115.76.

Standard 115.67: Agency protection against retaliation

115.67 (a)

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

- Has the agency designated which staff members or departments are charged with monitoring retaliation? ☒ Yes ☐ No

115.67 (b)

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

115.67 (c)

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

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

- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Act promptly to remedy any such retaliation? ☒ Yes ☐ No

- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor any inmate disciplinary reports? ☒ Yes ☐ No

- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor inmate housing changes? ☒ Yes ☐ No

- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor inmate program changes? ☒ Yes ☐ No

- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor negative performance reviews of staff? ☒ Yes ☐ No

- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor reassignments of staff? ☒ Yes ☐ No

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

115.67 (d)

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

115.67 (e)

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

115.67 (f)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

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

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

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

Department Operations Manual, Chapter 5, Article 44, section 54040.7 *(Detection, Notification, and Reporting)* states, *"CDCR employees have a responsibility to protect the offenders in their custody. All staff 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, staff sexual misconduct, or sexual harassment…Staff shall ensure the reporting of information is done as soon as possible and in a confidential manner."*

For at least 90 days following a report of sexual violence or staff sexual misconduct, the PCM monitors the conduct and treatment of inmates or employees who reported or cooperated with an investigation, to ensure there are no changes that may suggest retaliation. This monitoring is documented on form CDCR 2304. This auditor reviewed 29 investigative files, and each file contained the appropriate documentation to indicate the monitoring was occurring at VSP. The Warden indicated in his interview that retaliation of any form would not be tolerated at VSP. This auditor's interview with the facility PCM indicated that he is aware of and adhering to his responsibilities with regards to protection against retaliation. The facility does not continue monitoring for retaliation when an allegation has been deemed unfounded.

Standard 115.68: Post-allegation protective custody

115.68 (a)

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

Auditor Overall Compliance Determination

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

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

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

Department Operations Manual, Chapter 5, Article 44, section 54040.14.1 (*PREA Victims Non-Disciplinary Segregation*) states, *"PREA victims being removed from general population may be placed on non-disciplinary segregation status, in accordance with CCF Section 3335(b) and shall be assessed for any ongoing safety concerns. The assessment shall be documented on the inmates* [sic] *CDC Form 114-A, Inmate Isolation Segregation Record. The assigned custody supervisor will be responsible for reviewing the circumstances of the incident and documenting his/her observations on a CDC Form 128-B, General Chrono. The assigned custody supervisor will attend the initial ICC and will make a recommendation regarding the need for continued housing on this status. ICC will consider the supervisor's input and make the final decision on retention or release from non-disciplinary segregation status. A custody supervisor is required to conduct assessments every thirty days from the date the inmate is initially placed on non-disciplinary segregation status. These assessments will be documented on the CDC Form 114-A. When the assigned custody supervisor determines the inmate's non-disciplinary segregation status is no longer needed, he/she shall submit a CDC Form 128-B requesting the inmate be seen by ICC for housing review."* The facility PCM submitted a written memorandum to this auditor indicating that VSP did not house any incarcerated survivors in non-disciplinary segregation housing during the audit period. Interviews with inmates who had alleged sexual abuse did not indicate they had been placed in segregated housing as a result of their report.

INVESTIGATIONS

Standard 115.71: Criminal and administrative agency investigations

115.71 (a)

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

- Does the agency conduct such investigations for all allegations, including third party and anonymous reports? [N/A if the agency/facility is not responsible for conducting any form of criminal OR administrative sexual abuse investigations. See 115.21(a).] ☒ Yes ☐ No ☐ NA

115.71 (b)

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

115.71 (c)

- Do investigators gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data? ☒ Yes ☐ No

- Do investigators interview alleged victims, suspected perpetrators, and witnesses? ☒ Yes ☐ No

- Do investigators review prior reports and complaints of sexual abuse involving the suspected perpetrator? ☒ Yes ☐ No

115.71 (d)

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

115.71 (e)

- Do agency investigators assess the credibility of an alleged victim, suspect, or witness on an individual basis and not on the basis of that individual's status as inmate or staff? ☒ Yes ☐ No

- Does the agency investigate allegations of sexual abuse without requiring an inmate who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding? ☒ Yes ☐ No

115.71 (f)

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

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

115.71 (g)

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

115.71 (h)

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

115.71 (i)

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

115.71 (j)

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

115.71 (k)

- Auditor is not required to audit this provision.

115.71 (l)

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

Auditor Overall Compliance Determination

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

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

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

CDCR correctional staff have peace officer status under California Penal Code 830.5, and are authorized and trained to conduct administrative and criminal investigations. Investigations are conducted by Locally Designated Investigators (LDIs). Department Operations Manual, Chapter 5, Article 44, section 54040.3 *(Definitions)* outlines that an LDI may be an Investigative Services Unit Investigator, or other designated institutional staff who have been trained to conduct investigations into allegations of sexual violence and/or staff sexual misconduct. This specialized training is required per California Penal Code 13516. Department Operations Manual, Chapter 5, Article 44, section 54040.4 (*Staff Training*) states, "*All employees who are assigned to investigate sexual violence and/or staff sexual misconduct will receive specialized training per PC Section 13516(c). The curriculum utilized in the class must be OTPD [Office of Training and Professional Development] approved. The Hiring Authority or PREA Compliance Manager (PCM) shall ensure employees investigating incidents of sexual violence and/or staff sexual misconduct are properly trained."*

The auditor reviewed the curriculum utilized for CDCR's Basic Investigators Course, which was most recently updated in December 2016. The training includes instruction on interviewing sexual abuse victims, the proper use of Miranda and Garrity warnings, evidence collection in confinement settings, and the criteria and evidence required to substantiate a case for administrative action or prosecution referral. Interviews with LDIs at VSP indicated they were knowledgeable in each aspect of sexual abuse and sexual harassment investigations. VSP has 17 Locally Designated Investigators. The auditor reviewed training records for all 17 staff to ensure the required training was received.

Credibility assessments are made individually, and not determined by the person's status as staff or inmate. This auditor reviewed 29 investigative reports, and the reasoning behind credibility assessments are clearly articulated in each report. Substantiated allegations were referred for prosecution. Three cases were pending prosecution at the time of the onsite review.

Department Operations Manual, Chapter 5, Article 20, section 14030.5 (*Who May Request a Polygraph Examination)* states, *"An employee, inmate, or parolee under investigation for an alleged violation of the law or a regulation may make a request for a polygraph examination. No person shall be ordered to take a polygraph examination."*

A review by the auditor of 29 administrative and criminal investigation files indicated they contain the required information on employee actions or failures to take actions, descriptions of physical and testimonial evidence, credibility assessments and investigative facts and findings.

Department Operations Manual, Chapter 5, Article 44, section 54040.20 (*PREA Data Storage and Destruction)* states, *"CDCR shall ensure that all PREA data collected are securely retained. All aggregated PREA data, from facilities under CDCRs* [sic] *direct control and private facilities with which it contracts, shall be made readily*

available to the public at least annually through the CDCR website. Before making aggregated PREA data publicly available, all personal identifiers shall be removed. PREA data collected shall be maintained for 10 years after the date of the initial collection."

Standard 115.72: Evidentiary standard for administrative investigations

115.72 (a)

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

Auditor Overall Compliance Determination

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

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

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

Department Operations Manual, Chapter 3, Article 22, section 33030.13.1 (*Investigative Findings)* states that allegation findings will be made by the Hiring Authority. The definition for *"not sustained"* and *"sustained"* indicate that a preponderance of evidence is necessary to prove or disprove an allegation. Interviews with the warden and ISU staff indicated they are aware of this standard in determining if allegations of sexual abuse or sexual harassment are substantiated, unsubstantiated or unfounded. This auditor reviewed 29 investigative files, and found this determination is made based on a preponderance of the evidence.

Standard 115.73: Reporting to inmates

115.73 (a)

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

115.73 (b)

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

115.73 (c)

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

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

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

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

115.73 (d)

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

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

115.73 (e)

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

115.73 (f)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

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

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

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

Department Operations Manual, Chapter 5, Article 44, section 54040.12.5 (Reporting to Offenders) states, *"Following an offender's allegation that a staff member has committed sexual misconduct against an offender, the alleged victim shall be informed as to whether the allegation has been substantiated, unsubstantiated, or unfounded."* The policy directs the PCM or designee to inform the offender if the alleged abuser is no longer posted within the inmate's unit, no longer employed at the facility, indicted on the alleged sexual misconduct, or convicted on the alleged sexual misconduct. Following an investigation into an inmate's allegation that he suffered sexual violence by another inmate, the institution will inform the alleged victim if the allegation is substantiated, unsubstantiated or unfounded. The institution will inform the inmate whenever the alleged abuser has been indicted on the alleged sexual violence or convicted of the charge. The agency's obligation to report/inform terminates if the alleged victim is released from the agency's custody. While onsite, this auditor reviewed 29 investigative files. VSP provides outcome notifications to inmates in writing. For completed cases, appropriate reporting had been provided.

DISCIPLINE

Standard 115.76: Disciplinary sanctions for staff

115.76 (a)

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

115.76 (b)

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

115.76 (c)

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

115.76 (d)

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

- Are all terminations for violations of agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, reported to: Relevant licensing bodies? ☒ Yes ☐ No

Auditor Overall Compliance Determination

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

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

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

Department Operations Manual, Chapter 5, Article 44, section 54040.3 (*Definitions*) states that staff sexual misconduct includes any *"threatened, coerced, attempted, or completed sexual contact, assault or battery between staff and offenders…The legal concept of 'consent' does not exist between staff and offenders; any sexual behavior between them constitutes sexual misconduct and shall subject the staff member to disciplinary action and/or to prosecution under the law."* Department Operations Manual, Chapter 3, Article 22, section 33030.19 (*Employee Disciplinary Matrix)* contains a comprehensive list of disciplinary infractions and corresponding sanctions. While this list is not considered all inclusive, it does indicate that staff sexual misconduct with an inmate warrants dismissal from state service. Department Operations Manual, Chapter 5, Article 44, section 54040.3 (*Reporting to Outside Agencies*) states, *"All terminations for violations of agency sexual misconduct or harassment policies, or resignations by employees that would have been terminated if not for their resignation, shall be reported to any relevant licensing body by the hiring authority or designee."*

The PCM submitted a written memorandum to this auditor indicating that VSP had five cases of staff sexual misconduct or sexual harassment during the audit period. This auditor reviewed the investigative files for these cases to ensure that appropriate action had been taken for substantiated cases.

Standard 115.77: Corrective action for contractors and volunteers

115.77 (a)

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

115.77 (b)

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

Auditor Overall Compliance Determination

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

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

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

Department Operations Manual, Chapter 5, Article 44, section 54040.12.4 (*Reporting to Outside Agencies for Contractors)* states, "*Any contractor or volunteer who engages in staff sexual misconduct shall be prohibited from contact with offenders and shall be reported to relevant licensing bodies by the hiring authority or designee."* Interviews with the Agency PREA Coordinator, the Warden and PCM indicated that any contractor or volunteer who was found to have violated agency policy related to sexual abuse and sexual harassment would not be permitted to have further contact with inmates.

Standard 115.78: Disciplinary sanctions for inmates

115.78 (a)

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

115.78 (b)

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

115.78 (c)

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

115.78 (d)

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

115.78 (e)

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

115.78 (f)

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

115.78 (g)

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

Auditor Overall Compliance Determination

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

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

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

(a-d)Department Operations Manual, Chapter 5, Article 44, section 54040.15 (*Disciplinary Process)* states, *"Upon completion of the investigative process, the existing disciplinary process, which includes referral for criminal prosecution and classification determinations shall be followed. If the allegation of sexual violence warrants a disciplinary/criminal charge, a CDCR Form 115, Rules Violation Report shall be initiated."* Sanctions for rule violations are determined on a matrix, commensurate with the nature and circumstances of the abuse committed, the inmate's disciplinary history, and the sanctions imposed for comparable offenses by other inmates with similar histories. This auditor reviewed CDCR Form 115s to ensure these determinations were made in accordance with the standard.

(e) In accordance with California Code of Regulations, Title 15, section 3323 (*Disciplinary Credit Forfeiture Schedule*), inmates are only disciplined for sexual contact with a staff member if it is found to have occurred against the staff person's will.

(f) Department Operations Manual, Chapter 5, Article 44, section 54040.15.1 (Alleged Victim – False Allegations) states, *"Following the investigation into sexual violence, or staff sexual misconduct, if it is determined that the allegations were made not in good faith or based upon a reasonable belief that the alleged conduct occurred, the offender making the allegations may be subject to a disciplinary action. A charge of 'making a false report of a crime,' a Division 'E' offense, is appropriate only if evidence received indicates the offender knowingly made a false report. An allegation deemed unsubstantiated or unfounded based on lack of evidence, does not constitute false reporting."*

(g) CDCR prohibits sexual activity between inmates. In the interest of public health and safety, California state law requires the CDCR to make condoms available in all state prisons. Condoms are made available free of charge, and inmates may possess up to three at any given time. This law does not change the fact that sexual activity between inmates is illegal and can be addressed according to the California Code of Regulations, Title 15 and the California Penal Code. Notices around the facility pertaining to sexual abuse state, *"No means no and yes is not allowed."* Interviews with ISU and custody staff indicated they would investigate any sexual activity to determine if it was consensual prior to pursuing it as a PREA matter or disciplinary matter.

MEDICAL AND MENTAL CARE

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

115.81 (a)

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

115.81 (b)

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

115.81 (c)

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

115.81 (d)

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

115.81 (e)

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

Auditor Overall Compliance Determination

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

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

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

Department Operations Manual, Chapter 5, Article 44, section 54040.7 (*Detection, Notification, and Reporting)* states, *"If it is reported by an offender during initial intake screening or at any other time during his/her confinement within CDCR, that he/she has experienced prior sexual victimization or previously perpetrated sexual abuse, whether it occurred in an institutional setting or in the community, staff shall ensure that the inmate is referred to mental health utilizing the CDCR Form 128-MH5, Mental Health Referral Chrono."* Inmates who are not identified at Reception or upon arrival at an institution as needing mental health services, but develop such needs later, may be referred to mental health at any time. Urgent referrals must be seen within 24 hours, and routine referrals are seen within five working days. Referrals are made for those who identify as having been victimized, as well as those who have sexually inappropriate behavior. Inmates sign an Informed Consent for medical and mental health care services, which indicates information is confidential, except for those with a need to know. CDCR Form 7552 is used when sexual violence outside of an institutional setting is reported, upon authorization of the victim. This information is routed to ISU for appropriate action. Interviews with medical and mental health staff indicated they were aware of and followed standard requirements.

Standard 115.82: Access to emergency medical and mental health services

115.82 (a)

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

115.82 (b)

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

- Do security staff first responders immediately notify the appropriate medical and mental health practitioners? ☒ Yes ☐ No

115.82 (c)

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

115.82 (d)

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

Auditor Overall Compliance Determination

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

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

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

Inmates in CDCR custody are providing with emergency medical response, treatment and transportation 24 hours a day, per policy. Incarcerated survivors who require forensic medical examinations are transported to Community Regional Medical Center. Inmates may request medical treatment for urgent/emergency needs from any CDCR employee. Interviews with medical health services staff members indicated incarcerated survivors are offered sexually transmitted infection prophylaxis information and treatment during the forensic medical exam and upon their return to the facility.

California Correctional Health Care Services has written directives in its Governance and Administration stating that copayments are not charged is health care service(s) is considered to be treatment services relating to sexual abuse or assault. The victim's level of cooperation with any investigation does not impact this directive.

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

115.83 (a)

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

115.83 (b)

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

115.83 (c)

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

115.83 (d)

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

115.83 (e)

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

115.83 (f)

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

115.83 (g)

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

115.83 (h)

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

Auditor Overall Compliance Determination

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

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

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

(a-c) Department Operations Manual, Chapter 5, Article 44, section 54040.7 (*Detection, Notification, and Reporting)* states, *"If it is reported by an offender during initial intake screening or at any other time during his/her confinement within CDCR, that he/she has experienced prior sexual victimization or previously perpetrated sexual abuse, whether it occurred in an institutional setting or in the community, staff shall ensure that the inmate is referred to mental health utilizing the CDCR Form 128-MH5, Mental Health Referral Chrono."* Inmates who are not identified at Reception or upon arrival at an institution as needing mental health services, but develop such needs later, may be referred to mental health at any time. Urgent referrals must be seen within 24 hours, and routine referrals are seen within five working days. Referrals are made for those who identify as having been victimized, as well as those who have sexually inappropriate behavior. This auditor reviewed documentation indicating evaluations are taking place as required. Interviews with medical and mental health services staff members indicated ongoing treatment is provided to victims of sexual abuse, as well as known inmate-on-inmate abusers. When asked about the comparison with a community-level of care, they indicated they believed the facility's standard of care to be higher. Inmates are scheduled for appointments and do not have to seek these services out on their own.

(d-e) As VSP does not house female inmates, these elements of the standard does not apply.

DATA COLLECTION AND REVIEW

Standard 115.86: Sexual abuse incident reviews

115.86 (a)

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

115.86 (b)

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

115.86 (c)

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

115.86 (d)

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

115.86 (e)

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

Auditor Overall Compliance Determination

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

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

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

PREA standards require that sexual abuse incident reviews are conducted within 30 days of the conclusion of every sexual abuse investigation when the allegation is substantiated or unsubstantiated. Department Operations Manual, Chapter 5, Article 44, section 54040.17 (Institutional PREA Review Committee) directs that each Hiring Authority is required to conduct an incident review of every sexual violence or staff sexual misconduct allegation, including allegations that have not be substantiated. The PCM schedules IPRC reviews within 60 days of the date of the discovery of the allegation. The IPRC considers all of the elements required by the standard, as the information becomes available. A report is prepared at the conclusion of the IPRC meeting. The PCM indicated these reviews are conducted after discovery of the allegation on an on-going basis to ensure the facility is taking appropriate corrective action to prevent further incidents, and not waiting until the conclusion of an investigation. This exceeds the standard requirements, and shows that VSP is committed to providing a sexually safe environment for the inmates in its custody.

Standard 115.87: Data collection

115.87 (a)

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

115.87 (b)

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

115.87 (c)

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

115.87 (d)

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

115.87 (e)

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

115.87 (f)

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

Auditor Overall Compliance Determination

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

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

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

Department Operations Manual, Chapter 5, Article 44, section 54040.20 (*PREA Data Storage and Destruction)* states, *"CDCR shall ensure that all PREA data collected are securely retained. All aggregated PREA data, from facilities under CDCRs* [sic] *direct control and private facilities with which it contracts, shall be made readily available to the public at least annually through the CDCR website. Before making aggregated PREA data publicly available, all personal identifiers shall be removed. PREA data collected shall be maintained for 10 years after the date of the initial collection."* VSP provided this auditor with a copy of their 2015 Survey of Sexual Victimization, and a copy of their 2015and 2016 PREA Annual Reports. The annual reports include the data necessary to answers all questions from the most recent version of the Survey of Sexual Victimization conducted by DOJ. The 2015 and 2016 annual reports are available to the public via the CDCR website at https://www.cdcr.ca.gov/PREA/Reports-Audits.html.

Standard 115.88: Data review for corrective action

115.88 (a)

- Does the agency review data collected and aggregated pursuant to § 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by: Identifying problem areas? ☒ Yes ☐ No

- Does the agency review data collected and aggregated pursuant to § 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by: Taking corrective action on an ongoing basis? ☒ Yes ☐ No

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

115.88 (b)

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

115.88 (c)

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

115.88 (d)

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

Auditor Overall Compliance Determination

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

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

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

Department Operations Manual, Chapter 5, Article 44, section 54040.20 (*PREA Data Storage and Destruction)* states, *"CDCR shall ensure that all PREA data collected are securely retained. All aggregated PREA data, from facilities under CDCRs* [sic] *direct control and private facilities with which it contracts, shall be made readily*

available to the public at least annually through the CDCR website. Before making aggregated PREA data publicly available, all personal identifiers shall be removed. PREA data collected shall be maintained for 10 years after the date of the initial collection." VSP provided this auditor with a copy of their 2015 Survey of Sexual Victimization, and a copy of their 2015and 2016 PREA Annual Reports. The report is approved by the agency head. The 2015 and 2016 annual reports are available to the public via the CDCR website at https://www.cdcr.ca.gov/PREA/Reports-Audits.html. The reports do not contain any personally identifying information. The reports identify corrective action being taken on an agency-wide level as well as for each facility.

Standard 115.89: Data storage, publication, and destruction

115.89 (a)

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

115.89 (b)

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

115.89 (c)

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

115.89 (d)

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

Auditor Overall Compliance Determination

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

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

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

Department Operations Manual, Chapter 5, Article 44, section 54040.20 (*PREA Data Storage and Destruction)* states, *"CDCR shall ensure that all PREA data collected are securely retained. All aggregated PREA data, from facilities under CDCRs* [sic] *direct control and private facilities with which it contracts, shall be made readily*

available to the public at least annually through the CDCR website. Before making aggregated PREA data publicly available, all personal identifiers shall be removed. PREA data collected shall be maintained for 10 years after the date of the initial collection." CDCR makes aggregated data available to the public in the form of annual PREA reports. The 2015 and 2016 annual reports are available to the public via the CDCR website at https://www.cdcr.ca.gov/PREA/Reports-Audits.html. The reports do not contain any personally identifying information.

VSP has a separate records retention schedule for PREA. Investigatory files are retained in 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. Interviews with human resource staff, the PCM and ISU staff indicated they were aware of and follow this requirement.

AUDITING AND CORRECTIVE ACTION

Standard 115.401: Frequency and scope of audits

115.401 (a)

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

115.401 (b)

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

115.401 (h)

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

115.401 (i)

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

115.401 (m)

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

115.401 (n)

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

Auditor Overall Compliance Determination

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

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

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

CDCR has operates 35 facilities. It began having PREA audits in 2016 and to date nine facilities have received final reports. In the current cycle of audits, one-third of the agency's facilities have been audited, but not all final reports have been received. CDCR has submitted an Assurance of Intention to Adopt and Achieve Full Compliance with the standards. All audits were conducted by DOJ-certified auditors, and all audit reports were posted on CDCR's website, available to the public at: https://www.cdcr.ca.gov/PREA/Reports-Audits.html.

While onsite at Valley State Prison, the audit team was provided with access to, and the ability to observe, all areas of the facility. The auditor received copies of all requested documents, and was permitted to conduct private interviews with staff and inmates. Inmates were permitted to send confidential correspondence to the auditor, prior to the onsite review.

Standard 115.403: Audit contents and findings

115.403 (f)

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

Auditor Overall Compliance Determination

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

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

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

CDCR has operates 35 facilities. It began having PREA audits in 2016 and to date nine facilities have received final reports. All audits were conducted by DOJ-certified auditors, and all audit reports were posted on CDCR's website, available to the public at: https://www.cdcr.ca.gov/PREA/Reports-Audits.html.

AUDITOR CERTIFICATION

I certify that:

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

☒ No conflict of interest exists with respect to my ability to conduct an audit of the agency under review, and

☒ I have not included in the final report any personally identifiable information (PII) about any inmate or staff member, except where the names of administrative personnel are specifically requested in the report template.

Auditor Instructions:

Type your full name in the text box below for Auditor Signature. This will function as your official electronic signature. Auditors must deliver their final report to the PREA Resource Center as a searchable PDF format to ensure accessibility to people with disabilities. Save this report document into a PDF format prior to submission.[1] Auditors are not permitted to submit audit reports that have been scanned.[2] See the PREA Auditor Handbook for a full discussion of audit report formatting requirements.

Amanda Rasmussen March 20, 2018

Auditor Signature **Date**

[1] See additional instructions here: https://support.office.com/en-us/article/Save-or-convert-to-PDF-d85416c5-7d77-4fd6-a216-6f4bf7c7c110 .

[2] See *PREA Auditor Handbook*, Version 1.0, August 2017; Pages 68-69.