

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

Interim       Final

**Date of Report**    March 27, 2019

### Auditor Information

**Name:**    Mark A. Mora

**Email:**    mark.mora@ks.gov

**Company Name:**    Kansas Department of Corrections

**Mailing Address:**    714 SW Jackson Suite 300

**City, State, Zip:**    Topeka, Kansas 66603

**Telephone:**    620-481-7273

**Date of Facility Visit:**    July 16-20, 2018

### Agency Information

**Name of Agency:**

California Department of Corrections and Rehabilitation

**Governing Authority or Parent Agency (If Applicable):**

Division of Adult Institutions, State of California

**Physical Address:**    1515 S. Street

**City, State, Zip:**    Sacramento, California 95811

**Mailing Address:**    P.O. Box 94283-0001

**City, State, Zip:**    Sacramento, California 94283

**Telephone:**    916-985-2561

**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://www.cdcr.ca.gov/Facilities>

### Agency Chief Executive Officer

**Name:**    Scott Kernan

**Title:**    Secretary

**Email:**    scott.kernan@cdcr.ca.gov

**Telephone:**    916-445-7688

### Agency-Wide PREA Coordinator

<b>Name:</b> Shannon Stark	<b>Title:</b> Captain
<b>Email:</b> Shannon.stark@cdcr.ca.gov	<b>Telephone:</b> 916-324-6688
<b>PREA Coordinator Reports to:</b> Amy Miller, Associate Director, Female Institutions	<b>Number of Compliance Managers who report to the PREA Coordinator</b> 36

### Facility Information

<b>Name of Facility:</b> Avenal State Prison			
<b>Physical Address:</b> #1 Kings Way, Avenal, California 93204			
<b>Mailing Address (if different than above):</b> P.O. Box 8, Avenal, California 93204			
<b>Telephone Number:</b> 559-386-0587			
<b>The Facility Is:</b>	<input type="checkbox"/> Military	<input type="checkbox"/> Private for profit	<input type="checkbox"/> Private not for profit
<input type="checkbox"/> Municipal	<input type="checkbox"/> County	<input checked="" type="checkbox"/> State	<input type="checkbox"/> Federal
<b>Facility Type:</b>	<input type="checkbox"/> Jail	<input checked="" type="checkbox"/> Prison	
<b>Facility Mission:</b> "ASP is a reentry Hub programming hub which is geared to ensure that, upon release, offenders are ready for the transition back into society. We help develop parole plans, provide prisoners assistance with developing social skills and obtaining services in their local communities, promote public support."			
<b>Facility Website with PREA Information:</b> <a href="https://www.cdcr.ca.gov/Facilities_Locator/ASP.html">https://www.cdcr.ca.gov/Facilities_Locator/ASP.html</a>			

### Warden/Superintendent

<b>Name:</b> Rosemary Ndoh	<b>Title:</b> Warden
<b>Email:</b> rosemary.ndoh@cdcr.ca.gov	<b>Telephone:</b> 559-386-0587

### Facility PREA Compliance Manager

<b>Name:</b> Brian Sunamoto	<b>Title:</b> Captain
<b>Email:</b> brian.sunamoto@cdcr.ca.gov	<b>Telephone:</b> 559-386-0587

### Facility Health Service Administrator

<b>Name:</b> Donald McElroy	<b>Title:</b> Chief Executive Officer
<b>Email:</b> Donald.mcelroy@cdcr.ca.gov	<b>Telephone:</b> 559-386-0587

### Facility Characteristics

Designated Facility Capacity: 4,370		Current Population of Facility: 4,320	
Number of inmates admitted to facility during the past 12 months			2883
Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 30 days or more:			2487
Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 72 hours or more:			2828
Number of inmates on date of audit who were admitted to facility prior to August 20, 2012:			58
Age Range of Population:	Youthful Inmates Under 18: N/A	Adults: 19-64	
Are youthful inmates housed separately from the adult population?		<input type="checkbox"/> Yes	<input type="checkbox"/> No <input checked="" type="checkbox"/> NA
Number of youthful inmates housed at this facility during the past 12 months:			0
Average length of stay or time under supervision:			N/A
Facility security level/inmate custody levels:			Level II, Level III Minimum B, Medium A
Number of staff currently employed by the facility who may have contact with inmates:			1,345
Number of staff hired by the facility during the past 12 months who may have contact with inmates:			66
Number of contracts in the past 12 months for services with contractors who may have contact with inmates:			52
<b>Physical Plant</b>			
Number of Buildings: 118		Number of Single Cell Housing Units: 1	
Number of Multiple Occupancy Cell Housing Units:		1	
Number of Open Bay/Dorm Housing Units:		23	
Number of Segregation Cells (Administrative and Disciplinary):		0	
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.):			
Visitation Areas, All Prison Industry Authority (PIA) Areas, Out-Patient Housing Unit			
<b>Medical</b>			
Type of Medical Facility:		Out-Patient Housing Unit/Treatment Triage Area	
Forensic sexual assault medical exams are conducted at:		Kaweah Delta Hospital, 1622 S. Court, St. Visalia, California 93277	
<b>Other</b>			
Number of volunteers and individual contractors, who may have contact with inmates, currently authorized to enter the facility:			76
Number of investigators the agency currently employs to investigate allegations of sexual abuse:			7

# Audit Finding

## Audit Narrative

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

The audit of the Avenal State Prison (ASP) was conducted July 16 through July 20, 2018 to determine the facility's compliance with the Prison Rape Elimination Act (PREA) Standards. Mark A. Mora was the lead auditor. Other members of the audit team consisted of PREA Auditor Doug Lawson, Kansas State PREA Coordinator Peggy Steimel, and Corrections Facility Specialist II Electra Knowles. Doug Lawson, Peggy Steimel, and Electra Knowles assisted with a number of audit processes to include staff and offender interviews, site review, and documentation review. All audit team members were Kansas Department of Corrections employees.

The State of Kansas Department of Corrections and the California Department of Corrections and Rehabilitation (CDCR) were in a circular audit agreement with a number of states at the time of the audit.

The notice of the audit was posted throughout the Avenal State Prison on June 4, 2018. The audit team was provided still images of the postings throughout the facility from ASP staff on June 7, 2018. The audit notice advised the purpose of the audit and provided auditor contact information. The audit team received two (2) letters from offenders prior to the on-site portion of the audit. These offenders were interviewed by the lead auditor during the on-site portion of the audit.

Pre-Audit documentation and the ASP Pre-Audit Questionnaire was provided to the audit team on June 18, 2018. The audit team was provided agency and facility policies and procedures, various forms, education materials, training curriculums, agency contracts, memorandums of understanding, and other materials. All materials were reviewed by the audit team. The audit team corresponded with ASP staff prior to the in-site portion of the audit for clarification of pre-audit materials received and to request additional supporting documentation or materials. ASP responded promptly to requests made by the audit team. The lead auditor contacted Just Detention International (JDI) prior to the on-site portion of the audit to obtain any useable audit information in regard to ASP. JDI provided no useable audit information to the auditor.

The audit team arrived at the Avenal State Prison the morning of July 16, 2018. The audit team met with CDCR Agency PREA Staff, the facility administration to include the Warden, Associate Wardens, and the ASP PREA Compliance Manager.

Following the meeting with ASP administrators, the audit team began the site review. The audit team conducted the review in groups of two. The site review included observation of all living units, education and program areas, recreation areas, medical services areas, food service areas, intake and release, canteen areas, laundry, and private industry areas. The audit team was able to view offender sleeping areas, toilets, shower areas, and camera locations throughout the facility. During the site review, the audit team informally interviewed staff and offenders. The audit team observed the notice of audit postings in conspicuous areas throughout the facility. The audit team was allowed access to all areas of the facility to include areas specifically requested by the audit team.

During the site review, an audit team member tested the telephone reporting system for offenders. The audit team member provided a return number to the system. The audit team member was provided a response from the system.

Rosters for staff and offenders were provided to the audit team. Interview guides from the U.S. Department of Justice PREA Compliance Audit Instrument were utilized for interviews.

The audit team conducted the following offender interviews:

Random Offenders	39
Targeted Offenders	25
Total	64

Targeted Offender by Category:

Youthful Offenders	(N/A)
Disabled and Limited English Proficient	(16)
Lesbian/Gay/Bisexual	(3)
Transgender/Intersex	(0) (ASP does not house Transgender offenders)
Offenders Placed in Segregated Housing (at risk)	(0) (ASP does not maintain an administrative segregation unit)
Offenders Who Reported Sexual Abuse	(4)
Offenders Who Disclosed Victimization During Screening	(2)

The audit team conducted the following staff interviews:

Random Staff	27
Specialized Staff	20
Total Staff	47

Specialized Staff by Category:

Agency Contract Administrator	(1)
Intermediate/Higher Level Staff	(1)
Medical/Mental Health Staff	(6)
Human Resources	(1)
SAFE/SANE	(1)
Volunteers/Contractors	(2)
Investigative Staff	(2)
Staff who Perform Risk Screening	(2)
Staff on Incident Review Team	(1)
Staff Who Monitor Retaliation	(1)
Staff First Responders	(1)
Intake Staff	(1)

Interviews were conducted with facility/agency leadership to include the ASP Warden, CDCR Agency Head, ASP PREA Compliance Manager, and the CDCR PREA Coordinator.

All PREA policies and procedures were reviewed for compliance. Investigation files were reviewed while on site. Cases were well written and contained all pertinent documentation. Case files were well maintained and easy to read. Investigators answered questions from the auditor during the case file review. Review of training records and personnel files were also reviewed by the audit team.

The audit team held a debriefing with the facility administration on the final day of the on-site portion of the audit. Corrective action measures were discussed, questions were answered, and suggestions were made to provide ASP with feedback on enhancing their efforts toward full compliance with the PREA standards.

## Facility Characteristics

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

The Avenal State Prison (ASP) is a Level II institution which was originally opened in 1987 as the Kings County State Prison. The name was officially changed to the Avenal State Prison in 1988. ASP is located on 640 Acres in Avenal, California. The facility contains 23 dormitory housing units, a 28 bed Out-Patient Housing Unit, and a 10-bed firehouse which is located outside of the secure perimeter of the facility.

The audit team toured all living units within the facility, perimeter buildings, and met with staff. PREA postings to include crisis provider information and crisis hotline telephone numbers were in plain view. The PREA information was made available in English and Spanish. Notices were posted at the entrance to each living unit noting opposite gender staff must announce their presence within the living unit. Notice was also given via intercom when opposite gender entered the living unit.

The audit team noticed in living units 270 Buildings, "E" Buildings, and "14" Building, toilet areas and shower areas were viewable to cross-gender non-medical staff. This was discussed with ASP staff and was included as a corrective action measure.

ASP currently houses General Population and Sensitive Needs offenders. The facility was originally designed to accommodate a capacity of 2,320 offenders. The current population of ASP is approximately 4,000 offenders. ASP maintains 740 Peace Officer, 270 Support Services, and 251 Health Care Service staff positions.

ASP provides a variety of educational services to the offender population to include basic adult education, academic, life skills training, and college level courses. Career and technical classes offered include, Auto Body, Auto Mechanics, Masonry, Office Services, Plumbing, Small Engine Repair, and Welding.

The audit team toured the education and career technical center areas and met with staff. PREA postings to include crisis provider information were in plain view. Postings were in English and Spanish. Staff informally interviewed were able to articulate knowledge of PREA and their response to a report of sexual abuse or sexual harassment. Toilet areas (Education Building Bathrooms) that were outside near a "work

change” area allowed for cross-gender viewing by non-medical staff. This was discussed with ASP and was added as a corrective action measure.

The California Prison Industry Authority (CALPIA) at ASP is comprised of 48 civil service positions with approximately 459 budgeted offender assignments. CALPIA operations at ASP include Poultry, Egg Production, Furniture, General Fabrication, Laundry, and Healthcare Facility Maintenance. Offenders can earn accredited certifications in CALPIA programs.

The audit team toured all CALPIA areas and met with staff. The audit team informally interviewed staff in these areas. PREA postings, crisis provider information, and crisis telephone numbers were in plain view. The PREA information was made available in English and Spanish. The CALPIA areas are one of the few areas at ASP with video monitoring technology. The video system has a dedicated staff member to monitor the system. The audit team viewed monitored areas to verify there was no availability of cross-gender viewing to restroom areas via the system.

The Food Service department at ASP employs 45 staff and serves approximately 12,450 meals a day.

The audit team toured the Food Service areas and met with staff. The audit team noticed each Food Service area maintained a storage closet which was accessible to staff and offenders. The doors on the storage areas were solid (no window) and could be locked from the inside. It was recommended ASP make viewing within the closet available through the door (via window) or provide a locking system on the outside of the door with access available to offenders while being supervised. The audit team observed no PREA related materials posted in offender dining areas. ASP placed PREA postings including crisis provider information within the offender dining areas.

ASP has medical services which employs 251 employees including clinicians who are licensed and board certified. ASP maintains clinics for all living unit areas (yards). Medical services consist of medical primary care providers, mental health clinicians, dental services, registered nurses (RN), licensed vocational nurses (LVN), certified nurse assistants (CAN), and office technicians.

The Outpatient Housing Unit (OHU) and Triage and Treatment Area (TTA) are staffed 24 hours a day. The TTA averages approximately 160 patients monthly.

The audit team toured the medical service areas, OHU, TTA, and met with staff. Medical services staff were informally interviewed. The audit team noticed rooms within the OHU/TTA where offenders were housed maintained windows in the entrance doors that allowed for cross gender viewing by non-medical staff of the shower and toilet areas of the room. A number of other rooms within the OHU/TTA maintained rooms where offenders could be viewed (through windows) in a state of undress by non-medical cross-gender staff were also observed by the audit team. ASP took immediate corrective action and these areas were made compliant. The auditor was provided photographs of the corrected areas.

Mental Health services are provided to offenders by 39 staff team members. Services include individual and group therapy, crisis intervention, suicide prevention, assessments, referrals for higher-level care, reports for due process, pre-parole planning, community follow-up, and medication services.

The audit team toured the mental health areas met with and informally interviewed staff. Medical and Mental Health staff were able to articulate their responsibilities concerning an incident of sexual abuse. PREA related postings to include crisis provider information and crisis hotline telephone information was made available to offenders in English and Spanish.

ASP has a Fire department program offenders can participate in as a firefighter. Offenders assigned to the program participate in an extensive training program which includes Basic Firefighter Level I, Advanced

Firefighter II, and Driver Operator for Fire Engines. The program provides a service to the local community through mutual-aid response with the Kings County Fire Department and the City of Avenal, California. The department is staffed with one Fire Chief, 4 Fire Captains and 10 offender Firefighter positions.

The audit team toured the ASP Fire Department met with and informally interviewed staff and offenders. PREA related information was available to offenders who participated in the program.

ASP offers Inmate Leisure Time Activity Groups (ILTAGS), which are self-help programs for offenders. A number of ILTAGS noted were:

- Alcoholics Anonymous (A/A)
- Narcotics Anonymous (N/A)
- Criminal and Gangs Anonymous (C.G.A)
- Youth Adult Awareness Program (Y.A.A.P)
- Prison Mindfulness Meditation
- Veterans Group
- Art Class
- Heroes (Promotes pro-social behavior)
- Communication Skills
- Timeless (Develops decision making skills)

ASP provides a variety of religious programs to the offender population. ASP maintains four full-time Chaplains. ASP also provides the Friends Outside program which is facilitated by a Family Liaison Service Specialist who works with offenders and/or their families to assist with personal concerns related to the facility. The Friends Outside program also provides support to the offender with re-entry into the community.

ASP maintains community involvement through a Citizens Advisory Committee (CAC), Inmate Family Counsel (IFC), Monthly Food sales (fundraisers for charities), and donations from staff to annual local Coat/Jacket and Toy Drives.

## Summary of Audit Findings

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

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

**Number of Standards Exceeded:** 0

**Number of Standards Met:** 44

ASP does not house youthful offenders.

**Number of Standards Not Met:** 0

N/A

### **Summary of Corrective Action (if any)**

ASP was not in compliance with PREA Standard §115.15 (d). Corrective action was discussed with agency representatives and facility administrators during the on-site portion of the audit and continuing discussions post audit. There were a number of living units, gymnasium areas, and yard (outside) toilets within the facility compound where opposite gender staff could view offenders utilizing shower, toilet and urinals. A comprehensive list and number of specific areas is noted below.

- 17 – “270” Building Shower and Toilet areas (Housing)
- 6 – “E” Building Shower and Toilet areas (Housing)
- 6 – Education Building Bathrooms (Yard Toilets behind work change area)
- 6 – Recreation Yard toilet areas
- 1 – “140” Building Shower and Toilet areas (Housing)
- 6 – Gymnasium Shower areas
- 1 – Visitation Toilet area
- 3 – Canteen Toilet areas (D, E, F Yards)

Corrective action included “privacy screens” for shower and toilet areas in housing and gymnasium areas, toilets in the work change areas, and structural modifications to recreation yard and canteen area toilets. ASP will provide photographs of corrected non-compliant areas to the auditor during and to conclusion of the corrective action period to determine compliance.

### **CORRECTIVE ACTION COMPLETED:**

ASP completed the following corrective action measures to achieve compliance:

“270” Buildings, shower areas were completed with the vertical extension of existing cinder block walls with expanded metal (*A type of sheet metal which has been cut and stretched to form a regular pattern of metal-like mesh material commonly used for fences and grates.*) and adding vinyl privacy curtains to the entrances of the showers. Vinyl privacy curtains were added to the entrances to the restrooms and Polyvinyl chloride (PVC) framed vinyl screens were added to obstruct view of the toilets.

“E” Buildings were completed by adding mesh screens vertically extended from the existing cinder block walls surrounding shower and toilet areas. PVC framed privacy screens were also added to the entrances of the shower and toilet areas.

PVC Privacy screens were added to the Education Building bathrooms to obstruct direct view of the toilets.

Recreation yard toilets were completed by vertically extending existing cinder block walls surrounding the toilets with expanded metal. Vinyl privacy curtains were added to the entrances of the yard toilets to obstruct direct view of the toilets from the entrances.

“140” Building showers and restrooms were completed by adding expanded metal to existing expanded metal structure to obstruct direct view of the genitalia area.

Gymnasium shower areas were completed by vertically extending existing cinder block walls with expanded metal and adding PVC framed privacy screens to the entrances of the showers.

The Visitation toilet area was completed by adjusting a wall mounted security mirror to disallow direct view of the offender restroom toilet.

The Canteen restroom areas of D, E, and F yards were completed by adding vinyl privacy curtains to the entrances of the toilets and adjusting the security mirrors to disallow direct view of offender toilets.

ASP provided the auditor photographs of each area and item listed for corrective action prior to and upon completion of corrective measures for each area and item.

## PREVENTION PLANNING

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

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

#### 115.11 (a)

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

#### 115.11 (b)

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

### 115.11 (c)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

The California Department of Corrections and Rehabilitation (CDCR) Department Operations Manual (DOM), Chapter 5, Article 44, Section 54040, defines and establishes the agency's zero tolerance for sexual abuse and sexual harassment. The policy also establishes a number of guidelines and requirements for the prevention, detection and response to incidents of sexual abuse and sexual harassment.

The agency's zero tolerance policy has evolved in a positive manner over time since the beginning of PREA Audits conducted within the agency's facilities.

The agency has an employee who serves as the PREA Coordinator for the agency who maintains the rank of Captain. The PREA Coordinator articulated she has the time and authority to guide, implement and oversee the agency's efforts to comply with the PREA Standards.

The agency also has a PREA Compliance Manager (PCM) for each facility. The PREA Compliance Manager for the Avenal State Prison (ASP) acknowledged he maintained the authority to oversee and implement compliance related matters. The ASP PREA Compliance Manager maintained (6) months at this position and held the rank of Captain. He nonetheless maintained a high degree of agency and facility knowledge and commitment to ASP's PREA compliance efforts.

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

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

### 115.12 (a)

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

### 115.12 (b)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

CDCR maintains (9) contracts for confinement of offenders:

Tallahatchie County Correctional Facility  
La Palma Correctional Center  
Golden State Modified Community Correctional Facility  
Desert View Modified Community Correctional Facility  
Central Valley Modified Community Correctional Facility

McFarland Female Community Reentry Facility  
Shafter Modified Community Correctional Facility  
Delano Community Correctional Facility  
Taft Modified Community Correctional Facility

Contracts with the listed facilities provide an obligation to comply with the PREA Standards. The Contract Beds Unit of the CDCR oversees and monitors the contracts.

DOJ Certified PREA Auditors have audited all the above noted facilities. Shafter, Delano and Taft facilities were under corrective action at the time of this report. Audit reports were posted on the facilities websites.

ASP provided as supporting documentation, the contracts for each facility. Oversight is provided by the Contract Bed Unit of the CDCR.

The CDCR Contract Administrator was contacted for this audit. The agency Contract Administrator related, the CDCR maintains staff who monitor each contracted facility. All contracted facilities have been audited for compliance with the PREA standards. None of the contracted facilities were audited during this audit period. Contract facility PREA audit information was posted on the facilities websites.

## Standard 115.13: Supervision and monitoring

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

#### 115.13 (a)

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

inadequacy from internal or external oversight bodies in calculating adequate staffing levels and determining the need for video monitoring?  Yes  No

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

#### 115.13 (b)

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

#### 115.13 (c)

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

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

### 115.13 (d)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

DOM Chapter 5, Article 44, Section 54040.18, Institutional Staffing Plan (May 15, 2018), notes, "CDCR shall ensure that each facility it operates develops, documents and makes it best efforts to comply on a regular basis with a staffing plan that provides for adequate levels of staffing, and where applicable, video monitoring to protect offenders against sexual abuse. In calculating adequate staffing levels and determining the need for video monitoring, facilities shall take into consideration:

- (1) Generally accepted detention and correctional practices;
- (2) Any judicial findings of inadequacy;
- (3) Any findings of inadequacy from Federal investigative agencies;
- (4) Any findings of inadequacy from internal or external oversight bodies;
- (5) All components of the facility's physical plant (including "blind-spots" or areas where staff or inmates may be isolated);

- (6) The composition of the inmate population;
- (7) The number and placement of supervisory staff;
- (8) Institution programs occurring on a particular shift;
- (9) Any applicable State or local laws, regulations, or standards;
- (10) The prevalence of substantiated and unsubstantiated incidents of sexual abuse; and/or
- (11) Any other relevant factors.

In circumstances where the staffing plan is not complied with, the facility shall document and justify all deviations from the staffing plan through the Telestaff Program and Daily Activities Report. The Watch Commander is responsible for reporting and justifying all deviations from the approved staffing plan.”

Deviations from the approved staffing plan at ASP reflected reasons for deviation such as vacation leave, military leave, and sick leave. The deviations were noted in the Telestaff report.

Interviews with the ASP Warden and State PREA Coordinator provided the staffing plan at ASP was discussed and approved and consideration was given to incorporating video monitoring systems and other monitoring technologies. The agency coordinator interviewed explained newer facilities maintain the inclusion of video monitoring technology to supplement staff supervision.

At the time of the audit, ASP maintained video monitoring technology (249 surveillance cameras) in the following areas:

Visiting Rooms	30 (5 cameras per Visiting Room)
Out Patient Housing	12
Private Industry Authority (PIA) Furniture Factory	38
PIA Laundry	45
PIA Egg Production	42
PIA Poultry	26
PIA Metal Fabrication	29
PIA Warehouse	27

During the on-site portion and tour of ASP, it was noted there were a limited number of video monitoring cameras in the offender living areas. Video monitoring was incorporated into the Private Industry Authority (PIA) and medical facility areas.

It was recommended ASP attempt to enhance the video monitoring system to supplement staff supervision. This was discussed with the CDCR Agency Head.

DOM Chapter 5, Article 44, Section 54040.4, Education and Prevention (May 15, 2018), noted, “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 location that the security check was conducted. Staff is prohibited from alerting other staff members that these security rounds are occurring, unless such announcement is related to legitimate operational functions of the facility.”

During the on-sight portion of the audit, the auditor reviewed a number of Unit Log Books throughout the facility. There was consistency in the unannounced security rounds conducted however, there were instances of extended time between some of the documented unannounced security rounds. It was recommended ASP ensure all unannounced security rounds are conducted and documented within appropriate time frames on all shifts.

The custody supervisor interviewed acknowledged and explained how unannounced security rounds were conducted.

ASP also provided supporting documentation for this standard which included the facility staffing plan matrix, offender population data, Telestaff Codes for staffing plan variances, examples of security rounds, and DOM Chapter 1, Article 24, Section 14090.3, General Information, which noted the CDCR utilizes American Correctional Association (ACA) standards as a resource to develop CDCR regulations, policy, and operational procedures.

The staffing plan analysis documentation provided included a meeting date when the staffing plan was reviewed, the number and members present, a narrative of how the plan was developed, and an explanation of how the plan met the elements of standard § 115.13.

## Standard 115.14: Youthful inmates

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

#### 115.14 (a)

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

#### 115.14 (b)

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

#### 115.14 (c)

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

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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The Avenal State Prison does not house youthful offenders.

The CDCR Division of Juvenile Justice maintains oversight of youthful offenders.

## Standard 115.15: Limits to cross-gender viewing and searches

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

#### 115.15 (a)

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

#### 115.15 (b)

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

### 115.15 (c)

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

### 115.15 (d)

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

### 115.15 (e)

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

### 115.15 (f)

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

### Auditor Overall Compliance Determination

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

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

### **Instructions for Overall Compliance Determination Narrative**

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

DOM Chapter 5, Article 19, Section 52050.16.5, Unclothed Body Search of Inmates, notes "Unclothed body searches: 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."

Code of California Regulations (CCR) Title 15, Article 2, Section 3287, Security, notes, "Correctional employees, other than qualified medical staff, shall not conduct unclothed body inspections of inmates of the opposite sex except under emergency conditions with life or death consequences."

DOM Chapter 5, Article 44, Section 54040.5, Searches, notes all cross-gender strip searches and cross-gender body cavity searches shall be documented. The same policy provides all cross-gender pat searches of female inmates shall be documented. These searches are required to be documented using CDCR Notice of Unusual Occurrence (NOU) form.

ASP reported no incidents of conducting cross-gender searches of any kind during this audit period.

DOM Chapter 5, Article 19, Section 52050.16.4, Clothed Body Search of Female Inmates, notes, "Body search procedures for clothed female inmates recognize, address, and minimize the effects of cross-gender contact inherent in the body search process by limiting this function to female correctional staff unless an emergency exists that threatens death, inmate escape, or great bodily injury to staff, inmates, or visitors."

DOM Chapter 5, Article 44, Section 54040.4, Preventative Measures, notes, "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."

ASP was not initially in compliance with this policy and PREA Standard §115.15 (d). Corrective action was discussed with the agency and facility administrators during the on-site portion of the audit and continuing discussions post audit. There were a number of living units, gymnasium areas, and yard (outside) toilets within the facility compound where opposite gender staff could view offenders utilizing showers, toilets and urinals. A comprehensive list of specific areas was included in the Summary of Corrective Action section of the interim report. During interviews, a number of offenders voiced their concern about these areas.

ASP underwent a corrective action period and was able to achieve compliance with Standard § 115.15 (d). A comprehensive list of areas and explanation of corrective actions taken by ASP are included in the Summary of Corrective Action section of this report.

DOM Chapter 5, Article 44, Section 54040.4, Preventative Measures, notes, "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 shift and/or when the status quo within the housing unit changes."

During the on-site portion of the audit, auditors noticed some inconsistency of opposite-gender announcements within the living units by staff. The announcement was generally made via intercom by living unit staff and by individual opposite gender staff however, this was not consistently being done while on tour. ASP does have signage outside each living unit entrance which notes; "ATTENTION! Staff of the opposite biological sex must announce their presence when entering the housing unit. REQUIRED at start of each shift and/or when the status quo within the housing unit changes." The sign maintains a red background with white lettering. It was recommended supervisory staff emphasize and monitor consistency with the opposite-gender announcements by staff.

DOM Chapter 5, Article 19, Section 52050.16.7, Unclothed and Clothed Body Searches of Transgender or Intersex Inmates, notes, "If staff are unable to determine the genital status through medical records or interview with the inmate, the inmate shall be placed on single cell status or in administrative segregation for his/her safety, until the standard intake medical evaluation is completed."

DOM Chapter 5, Article 44, Section 54040.4, Staff Training, notes, "Employees shall 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."

Staff interviewed indicated they were trained in conducting cross-gender pat down searches of offenders.

ASP provided cross-gender pat search curriculum for the auditor to review.

ASP reported in the PAQ that 10% of security staff had received training on cross-gender pat searches of transgender and intersex offenders for this audit period. The ASP PREA Compliance Manager noted this was not an accurate percentage. The supporting documentation ASP provided indicated (527) custody and non-custody staff completed the training. The ASP PREA Compliance Manager indicated the supporting documentation regarding cross-gender pat search training submitted to the auditor was accurate and inclusive of all staff.

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

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

#### **115.16 (a)**

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

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

### 115.16 (b)

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

### 115.16 (c)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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ASP provides offenders with disabilities equal opportunity to participate in and have access to the CDCR's PREA compliance efforts. The facility maintains an agreement with Interpreters Unlimited Inc. who provides interpreting services for Limited English Proficient (LEP) offenders.

DOM (Department Operations Manual) Chapter 5, Article 44, Section 54040.7, Detection, Notification, and Reporting, notes, "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."

DOM Chapter 5, Article 44, Section 54040.12, Investigation, notes, "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."

DOM Chapter 5, Article 44, Section 54040.4, Offender Education, notes, "Appropriate provisions shall be made to ensure effective communication for offenders not fluent in English, those with low levels, and those with disabilities."

ASP provided a memo from the CDCR Division of Adult Institutions dated October 16, 2017, which noted, "...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 may consider the use of offender peer educators to enhance the offender population's knowledge and understanding of PREA and sexually transmitted diseases."

The same memo provided; "...instances where an inmate's Test of Adult Basic Education (TABE) 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... For instances involving due process, employees give priority to the inmate's primary means of communication, which may include but is not limited to; auxiliary communication aids, sign language interpreter, and bilingual interpreter."

The CDCR Mental Health Services Delivery System (MHSDS) Program Guide Overview, Section A. notes:

"Reasonable accommodation shall be afforded to inmate-patients with disabilities, e.g., visually impaired, hearing impaired, speech impaired, learning disabled, and developmentally disabled, to ensure equally effective communication during contacts of any kind that occur within the MHDS. Auxiliary aids that are responsible, effective, and appropriate to the needs of the inmate-patient shall be provided when simple written or oral communication is not effective. Such aids may include qualified sign language interpreters, readers, sound amplification devices, captioned television/video text displays, Telecommunication devices for the Deaf (TDD), audio taped texts, Braille materials, large print materials, and sign language."

PREA education videos are provided on the offender television network within the facility and during orientation.

During the tour auditors viewed PREA posters in living units and conspicuous areas of the facility. The postings were available in English and Spanish.

The audit team noted a number of Interviews with LEP offenders who primarily speak Spanish indicated they were not provided PREA education materials in Spanish during intake. This was reviewed with the ASP administration and it was recommended case managers provide offenders on their case load PREA related materials in the appropriate primary language of the offender. It was also recommended ASP develop an electronic tracking system for PREA related materials provided to offenders during the intake process or otherwise.

ASP utilizes CDCR certified staff interpreters. The certification process was discussed with ASP staff during the on-site portion of the audit.

Investigators indicated they recalled no incident when they utilized or considered utilizing an offender as an interpreter subsequent to a report of sexual abuse or sexual harassment.

## Standard 115.17: Hiring and promotion decisions

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

#### 115.17 (a)

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

#### 115.17 (b)

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

#### 115.17 (c)

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

#### 115.17 (d)

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

#### 115.17 (e)

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

#### 115.17 (f)

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

#### 115.17 (g)

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

#### 115.17 (h)

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

#### Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

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DOM Chapter 3, Article 6, Appointments, Section 31060.3, Power of Appointment, notes, "...the hiring authority 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 engage in the activity described immediately above."

These applicant inquiries (questions) are noted in the State of California SUPPLEMENTAL APPLICATION FOR ALL EMPLOYEES (CDCR Form 1951)

The same policy notes, "Hiring authorities shall:

Ask all applicants and employees who may 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."

The CDCR Form 1951 also requires applicants to provide previous prison, jail, lock-up, or community confinement employment history and any prior arrest or criminal convictions for inquiry by the CDCR.

DOM Chapter 3, Article 6, Section 31060.16, Criminal Records Check, notes, "A criminal records check is a requirement for employment with CDCR..." The policy requires an applicant to be fingerprinted, or "live scanned". The Live Scan system notifies the CDCR of any subsequent arrest of employees on an ongoing basis.

California Code of Regulations (CCR), Title 15, Section 3411, Reporting of Arrest or Conviction, Change in Weapons or Driving Status, notes, "If an employee is arrested or convicted of any violations of law, the employee must promptly notify the institution head or appropriate director/assistant secretary of that fact."

DOM Chapter 3, Article 20, Section 33010.31.4.4, Work Performance Inquiries, notes, "Supervisors may comment on the work performance of subordinates or former subordinates and respond to inquiries from third parties about a subordinate's or former subordinate's qualifications, as long as such comments are founded in documentation. A supervisor may indicate whether a subordinate or former subordinate would be considered for rehire. Personal and confidential information shall not be disclosed unless authorized by the individual to whom it pertains (CC 1798.50)."

The ASP Institutional Personnel Officer (IPO) was interviewed. The IPO was able to explain human resource processes and policies. Auditors were able to review samples of background checks of employees. The IPO was able to explain disciplinary processes for staff, the facility staffing plan, and the ability to counsel on issues regarding facility staffing. The IPO also provided a number of supporting documents utilized by ASP as part of the hiring and employment process.

## Standard 115.18: Upgrades to facilities and technologies

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

#### 115.18 (a)

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

#### 115.18 (b)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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ASP has not acquired any new facility, made a significant or substantial expansion or facility update to video monitoring system(s) since August 12, 2012.

The facility provided a notice of change memorandum dated August 14, 2017, generated by the CDCR Facility Planning, Construction and Management Division. The notice of change document titled; Design and Construction Guidelines, Chapter/Division Title: Adult Prisons, Chapter/Division Number: IV, Section Title: Security Operations, Section Number: H.1.c noted the following:

**“APPROVED CHANGE:**

H.1 Security – (a. & b. remains unchanged). C. 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. D. (becomes c. currently) e. (becomes d. currently).”

ASP administrators were able to explain the CDCR expansion and modification processes.

## RESPONSIVE PLANNING

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

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

#### 115.21 (a)

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

#### 115.21 (b)

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

#### 115.21 (c)

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

#### 115.21 (d)

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

#### 115.21 (e)

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

#### 115.21 (f)

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

#### 115.21 (g)

- Auditor is not required to audit this provision.

#### 115.21 (h)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

DOM Chapter 5, Article 44, Section 54040.8, Response, outlines the requirements to preserve a potential crime scene and protect potential evidence.

DOM Chapter 5, Article 44, Section 54040.8.1, Custody Supervisor Responsibilities (Revised July 27, 2017), Sections; Crime Scene Preservation, and Evidence, further outlines protocol to include a Custody Supervisor Checklist used to assist the Custody Supervisor in identifying duties to be completed.

DOM Chapter 5, Section 54040.9, Forensic Medical Examinations, addresses the collection of physical evidence gleaned from forensic medical examinations and follow-up care and treatment for the victim.

The California Penal Code (PEN) 679.04 and 264.2, also address provisions for forensic medical examinations.

California Correctional Health Services policy, Volume I: Governance and Administration, Chapter 10, Section 1.10, notes offenders will not be charged for any cost attributed to treatment services related to sexual abuse or assault.

ASP utilizes Kaweah Delta Medical Center in Visalia, California for forensic medical examinations.

An interview was conducted with the SANE/SAFE provider who explained the services provided to ASP.

The facility has an established Memorandum of Understanding (MOU) with the Kings County Action Organization (KCAO Rape Crisis Center) Hanford, California to provide advocacy services to offenders. The facility maintained postings for KCAO services throughout the facility.

A victim advocate from KCAO was interviewed and was able to explain services provided to ASP.

DOM Chapter 5, Article 44, Section 54040.3, Definitions, notes, Locally Designated Investigators (LDI) are members of the facility Investigative Services Unit (ISU) or other designated staff member who receive specialized training specific to sexual abuse incidents.

Interviews with investigators revealed knowledge of procedures for evidence collection and advising offenders of the availability of community level advocacy services.

ASP reported no incidents of forensic medical examinations being conducted in the twelve (12) month period prior to the audit.

Medical staff interviewed were able to explain the on-site medical services provided in the event of a sexual abuse incident. Medical staff was also able to explain the process and procedure for providing SAFE/SANE services to offenders.

ASP provided the medical services and investigator training curriculums for the auditor to review.

## **Standard 115.22: Policies to ensure referrals of allegations for investigations**

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

#### **115.22 (a)**

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

#### **115.22 (b)**

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

#### **115.22 (c)**

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

#### 115.22 (d)

- Auditor is not required to audit this provision.

#### 115.22 (e)

- Auditor is not required to audit this provision.

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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DOM Chapter 5, Article 44, Section 54040.12, Investigation, outlines the requirements for administrative and criminal investigations to include the requirement, all allegations of sexual abuse and sexual harassment will be investigated.

Investigators maintain the legal authority to conduct criminal investigations. The policy is published on the agency website.

Investigations that involve misconduct on the part of staff are referred to the Office of Internal Affairs (OIA).

ASP reported eight (7) PREA related allegations that were submitted and investigated within the twelve (12) months prior to the audit.

Element (c) of this standard did not apply as all investigations are conducted by ISU or OIA.

The auditor is not required to audit elements (d) and (e) of this standard.

The auditor reviewed (8) PREA investigation reports for this audit period. The (1) case reported in the PAQ as substantiated was referred for prosecution. Each case file contained all relevant information

for the investigation and was well organized. ASP reported (7) cases for this audit period however, (1) case was added after the PAQ was submitted to the auditor.

Two (2) ISU/LDI investigators were interviewed which included the ISU Supervisor. Both were able to articulate the investigation process and how cases are referred to them. The investigators were also able to articulate elements of the training they have received in regards to sexual abuse and sexual harassment investigations. The investigators interviewed were also able to articulate how OIA are involved in the investigations process to include PREA related allegations.

## TRAINING AND EDUCATION

### Standard 115.31: Employee training

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

#### 115.31 (a)

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

- Does the agency train all employees who may have contact with inmates on how to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities?  
 Yes  No

#### 115.31 (b)

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

#### 115.31 (c)

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

#### 115.31 (d)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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DOM Chapter 5, Article 44, Section 54040.4, Education and Prevention, notes, all staff to include employees, volunteers and contractors shall receive training on the agency's zero tolerance policy for

sexual abuse and sexual harassment, prevention, detection and response to staff sexual misconduct, offender sexual abuse and offender sexual harassment.

The ASP training curriculum was provided and reviewed. The training curriculum covered the required elements of this standard.

The California Penal Code, Chapter 5, PEN 3430, also requires gender responsive training for correctional facility staff.

PREA Training is provided to new employees, at the Correctional Training Academy (CTA) and through annual block training.

All staff are required to participate in follow-up annual PREA training each year.

The training provided is gender specific according to population at the assigned facility.

Documentation was reviewed to verify staff acknowledged they received and understood the training.

Participation in the training is documented on CDCR 844, Training Participation Sign-in Sheet. The documentation is filed electronically. ASP also provided a spreadsheet matrix of staff who have attended and completed PREA training.

Staff interviewed, to include custody staff from all shifts, acknowledged receiving training in the prevention, detection, and responding to incidents of sexual abuse and sexual harassment. The majority of staff interviewed were able to articulate elements of the training.

ASP provided the employee, contractor and volunteer PREA training curriculum as supporting documentation and for auditor review.

## Standard 115.32: Volunteer and contractor training

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

### 115.32 (a)

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

### 115.32 (b)

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

### 115.32 (c)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

DOM Chapter 5, Article 44, Section 54040.4, Education and Prevention, Staff Training, requires all contractors and volunteers to be trained on the agency's zero tolerance policy on sexual abuse and sexual harassment.

Contractors and volunteers are trained on their duties and responsibilities in accordance with the agency and facility's policy and procedures regarding the prevention, detection and response to incidents of sexual abuse, staff sexual misconduct, sexual harassment and how to report such incidents. The audit team reviewed contractor and volunteer training records to verify the completion of training.

ASP provided documentation forms (CDCR Form 844) signed by contractors and volunteers acknowledging receiving and understanding the training they received.

DOM Chapter 3, Section 32010.8.4, Record of Training, requires the CDCR Form 844 maintained in an electronic database system.

The contractors and volunteers interviewed acknowledged receiving PREA training and were able to articulate how to report an incident of sexual abuse or sexual harassment and knowledge of the CDCR's zero tolerance policy.

### Standard 115.33: Inmate education

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

**115.33 (a)**

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

**115.33 (b)**

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

**115.33 (c)**

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

**115.33 (d)**

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

### 115.33 (e)

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

### 115.33 (f)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

DOM Chapter 5, Article 44, Section 54040.4, Offender Education, outlines the agency and facility policy for offender education regarding PREA. The information provided to offenders contains information on the agency's zero tolerance policy for sexual abuse and sexual harassment. Offenders receive PREA education by either written or multi-media presentation (English and Spanish) on intake at the facility and generally within 30 days of intake at Reception Centers (RC). Posters with PREA related information are posted throughout the facility in conspicuous areas. This was noted during the facility tour and photographs provided to the auditor prior to the on-site portion of the audit. The posters contained telephone number contacts to enable reports. Offenders are provided PREA brochures, "Sexual Violence Awareness" and PREA booklets, "Sexual Abuse/Assault – Prevention and Interventions". PREA information is also included in the facility's offender orientation handbook. The brochures and booklets are also made available to offenders from case management staff at the facility.

DOM Chapter 5, Article 44, Section 54040.4, Offender Education, notes the following in regard to offenders who may be Limited English Proficient (LEP) or who maintain disabilities:

"Appropriate provisions shall be made to ensure effective communication for offenders not fluent in English, those with low literacy levels, and those with disabilities."

The same policy notes:

“Institutions may consider the use of offender peer educators to enhance the offender population’s knowledge and understanding of PREA and sexually transmitted diseases.”

The CDCR maintains PREA education in a number of formats accessible to offenders to include, offenders who are LEP, deaf, visually impaired, or who maintain a type disability.

PREA education materials are made available to offenders in printed form in English and Spanish. CDCR certified staff interpreters are used as well as a tele-translation service.

CDCR documents offender participation in the education training on CDCR Form 128-B. These forms were available for the audit team to review.

As noted in section §115.16 of this report, a number of offenders interviewed whose primary language is Spanish related they were not provided PREA related materials in Spanish during intake. The recommendation was made to have case managers ensure all offenders are provided PREA related materials. An electronic tracking system was also recommended to document offenders who receive PREA related materials.

Intake staff interviewed explained the PREA related materials provided to offenders at intake which included Spanish versions of the PREA materials. Staff also related they would incorporate the assistance of a certified interpreter if necessary.

ASP maintained a number of staff who could speak and interpret Spanish, as ASP maintained a large Hispanic population. ASP Staff interpreters are required to be certified as interpreters through the CDCR. The CDCR provides an interpreter certification process for staff.

## Standard 115.34: Specialized training: Investigations

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

#### 115.34 (a)

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

#### 115.34 (b)

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

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

#### 115.34 (c)

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

#### 115.34 (d)

- Auditor is not required to audit this provision.

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

DOM Chapter 5, Article 44, Section 54040.4, Education and Prevention, Staff Training, notes, "...all employees assigned to investigate sexual violence or staff sexual misconduct will receive specialized training."

DOM Chapter 5, Article 44, Section 54040.12, Investigation, notes CDCR utilizes Locally Designated Investigators (LDI). The LDI's are ISU staff or other designated institutional staff who are trained to conduct allegations of sexual violence and/or staff sexual misconduct.

The California Penal Code, Section 13516(c), also provides the requirement of specialized training for investigators.

The specialized training curriculum was reviewed and determined to contain the required elements of this standard.

The training curriculum included:

- The proper use of Garrity and Miranda warnings. ISU and OIA investigators also receive training in the proper use of the Lybarger Warning (Lybarger v. City of Los Angeles, 40 Cal. 3d 822, 1985).
- Evidence collection specific to confinement settings.
- The criteria and evidence required to substantiate a case for administrative action or prosecution referral.

ASP also provided documentation noting staff who have completed the required specialized training. ASP reported having (7) investigators assigned to ISU.

Interviews with ASP investigators revealed they understood the required training and were able to articulate elements of the training they received.

ASP provided the specialized training curriculum as supporting documentation and for auditor review.

## Standard 115.35: Specialized training: Medical and mental health care

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

### 115.35 (a)

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

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

#### 115.35 (b)

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

#### 115.35 (c)

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

#### 115.35 (d)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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DOM Chapter 5, Article 44, Section 54040.4, Education and Prevention; Staff Training, notes, all staff including volunteers and contractors, shall receive training and education related to prevention, detection and response to incidents of sexual abuse and sexual harassment. The same policy provides all staff, to include contractors and volunteers, shall understand all incidents of sexual abuse and sexual harassment will be investigated.

ASP provided the auditor the specialized training curriculum for review. Inmate Medical Services Policy and Procedures (IMSP&P), Volume I, Chapter 16.1, Prison Rape Elimination Act Policy. The training provided for all required elements of this standard.

Medical and Mental Health staff are also provided training as required by standard §115.31.

During the on-site review of medical and mental health specialized training, it was noted a number of medical and mental health staff had not completed the required specialized training. ASP took corrective action while the audit team was on-site. The medical and mental health staff who had not completed the required specialized training were able to do so during the on-site portion of the audit. This was verified by the auditor.

The medical and mental health staff interviewed were able to articulate their responsibility during an incident of sexual abuse to include processes for follow-up (post incident) care and treatment.

## SCREENING FOR RISK OF SEXUAL VICTIMIZATION AND ABUSIVENESS

### Standard 115.41: Screening for risk of victimization and abusiveness

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

#### 115.41 (a)

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

#### 115.41 (b)

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

#### 115.41 (c)

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

#### 115.41 (d)

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

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (2) The age of the inmate?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (3) The physical build of the inmate?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (4) Whether the inmate has previously been incarcerated?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (5) Whether the inmate's criminal history is exclusively nonviolent?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (6) Whether the inmate has prior convictions for sex offenses against an adult or child?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (7) Whether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming (the facility affirmatively asks the inmate about his/her sexual orientation and gender identity AND makes a subjective determination based on the screener's perception whether the inmate is gender non-conforming or otherwise may be perceived to be LGBTI)?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (8) Whether the inmate has previously experienced sexual victimization?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (9) The inmate's own perception of vulnerability?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (10) Whether the inmate is detained solely for civil immigration purposes?  Yes  No

#### 115.41 (e)

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

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

#### 115.41 (f)

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

#### 115.41 (g)

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

#### 115.41 (h)

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

#### 115.41 (i)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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The CDCR utilizes a screening for victimization and abusiveness tool made available to screening staff in the CDCR Strategic Offender Management System (SOMS).

DOM Chapter 5, Article 44, Section 54040.6, Offender Housing, notes the elements and factors considered during the "Initial Housing Review" which occurs upon arrival at the facility. The risk screening is generally conducted by a Correctional Lieutenant or above. The initial screening is completed within the 72-hour requirement of this standard.

The California Code of Regulations (CCR) Title 15, Article 1.6, Subsection 3269, Inmate Housing Assignments, also notes the elements and factors to consider when conducting the initial housing review.

The initial screening takes into account elements (1) through (10) of §115.41(d).

A follow-up screening is conducted generally within a 5 to 15 day period.

CCR Title 15, Article 1.6, Inmate Housing, Section 3269, Integrated Housing, notes offenders will be reassessed by the Unit Classification Committee (UCC). The UCC is required to meet with the offender within 14 days of intake.

Information gleaned from interviews and documentation review revealed the UCC meeting with the offender took place within the 5 to 15 day period. The UCC review includes a review of the offender's risk assessment.

DOM Chapter 5, Article 44, Section 54040.7, Referral for Mental Health Screening, notes, if an offender discloses prior sexual victimization or abusiveness whether in confinement or in the community, a referral is to be made to mental health via CDCR Form 128-MH5.

DOM Chapter 5, Article 44, Section 54040.7, Detection, Notification, and Reporting, Screening for Appropriate Placement (revised July 27, 2017), notes, "An inmate's risk level shall be reassessed when warranted due to a referral, request, incident of sexual abuse, or receipt of information that bears on the inmate's risk of victimization or abusiveness."

California Correctional Health Care Services, Inmate Medical Services Policies and Procedures (IMSP&P) Volume I, Governance and Administration, Chapter 16, 1.16.2, Prison Rape Elimination Act Procedure, notes offenders are provided emergency and follow-up treatment to include referrals for care.

DOM Chapter 5, Article 44, 54040.6, Offender Housing, notes, an offender shall not be disciplined for refusing to answer or disclosing complete information during the risk screening.

CDCR maintains control of sensitive offender information and dissemination through a system of staff permission levels within their database systems.

The Correctional Lieutenant interviewed who conducts the risk screening was able to articulate the elements of the screening process at ASP, to include the follow-up screening and the UCC process. The Correctional Lieutenant explained if at any time during the initial risk screening there is a concern an offender may be at risk of harm or abuse in any way, the Correctional Lieutenant has the authority to take whatever measures necessary to protect the offender. The Correctional Lieutenant explained in cases when protective measures are initiated, a referral for a medical and mental health assessment of the offender would be generated. This same referral would be made if the offender disclosed prior sexual abuse or perpetration of sexual abuse while in confinement or in the community.

## Standard 115.42: Use of screening information

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

#### 115.42 (a)

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

#### 115.42 (b)

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

#### 115.42 (c)

- When deciding whether to assign a transgender or intersex inmate to a facility for male or female inmates, does the agency consider on a case-by-case basis whether a placement would ensure the inmate's health and safety, and whether a placement would present management or security problems (NOTE: if an agency by policy or practice assigns inmates to a male or

female facility on the basis of anatomy alone, that agency is not in compliance with this standard)?  Yes  No

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

#### 115.42 (d)

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

#### 115.42 (e)

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

#### 115.42 (f)

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

#### 115.42 (g)

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

#### Auditor Overall Compliance Determination

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

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

### Instructions for Overall Compliance Determination Narrative

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

DOM Chapter 5, Article 12, Section 62080.14, Transgendered Inmates (revised November 20, 2012), notes, inmates diagnosed as transgendered be documented on CDCR Form 128-C3 and be referred to a classification committee for review of all case factors and determination of appropriate institutional placement to include housing assignment.

DOM Chapter 5, Article 44, Section 54040.7, Detection, Notification, and Reporting, (Revised May 15, 2018), notes, "Any information related to sexual victimization or abusiveness that occurred in an institutional setting shall be strictly limited to medical and mental health practitioners and other staff, as necessary, to inform treatment plans and security management decisions, including housing, bed, work, and program assignments, or as otherwise required by Federal, State, or local law."

The facility UCC is the primary governing entity for determining the case management status for each transgender offender. Interviews with UCC members revealed the management status of each transgender offender are considered on a case-by-case basis. Documentation from UCC reviews were reviewed and revealed the offender's own views of their safety were considered.

ASP does not house Transgender offenders however; CDCR policy provides Transgender and Intersex offender offenders are allowed to shower separately.

ASP provided a State of California Memorandum, dated August 25, 2017, requiring bi-annual risk assessments for transgender and intersex offenders. Case managers conduct the risk screening incorporating information from the initial risk screening and UCC reviews.

Case management staff also conduct the risk screening, are involved in the UCC process, and make referrals to medical and mental health. Although Transgender offenders are not housed at ASP, case managers are provided training on the risk screening process for Transgender and Intersex offenders.

## Standard 115.43: Protective Custody

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

#### 115.43 (a)

- Does the facility always refrain from placing inmates at high risk for sexual victimization in involuntary segregated housing unless an assessment of all available alternatives has been

made, and a determination has been made that there is no available alternative means of separation from likely abusers?  Yes  No

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

#### 115.43 (b)

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

#### 115.43 (c)

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

#### 115.43 (d)

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

### 115.43 (e)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

DOM Chapter 5, Article 44, Section 54040.6, Offender Housing, notes, "Offenders at a 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."

The same policy requires the offender's case manager to schedule the offender for an appearance before the Institutional Classification Committee (ICC) in order to determine the offender's housing needs. The policy also requires the offender's placement in segregation should not ordinarily exceed 30 days.

CCR Title 15, Subchapter 4, Article 7, Section 3335, Administrative Segregation, notes, an offender placed in non-disciplinary segregation subsequent to an allegation of sexual abuse, shall have access to programs, privileges and education. The policy also requires documentation if the opportunities have been limited, the duration of the limitations, and the reasons for such limitations. The policy also provides that such placement cannot exceed a period of 30 days, or until alternative housing can be arranged.

Offenders at ASP who are determined to be at a high risk of sexual victimization receive a risk assessment immediately after placement or within 24 hours. The assessment is conducted by a Correctional Lieutenant who has the authority to take whatever means necessary to protect the offender.

ASP does not maintain a segregation unit. An offender requiring housing in an administrative segregation (restrictive housing) setting would be transferred to another CDCR facility that maintains an administrative segregation housing unit. The ASP PREA Compliance Manager indicated the offender

would be transferred to the CDCR Pleasant Valley State Prison. The ASP PAQ reported no incidents of placing an offender in involuntary segregation during this audit period.

The process of placing an offender in protective custody was explained in interviews with an ASP Shift Commander and the ASP PREA Compliance Manager.

## REPORTING

### Standard 115.51: Inmate reporting

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

#### 115.51 (a)

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

#### 115.51 (b)

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

#### 115.51 (c)

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

## 115.51 (d)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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DOM Chapter 5, Article 44, Section 54040.7, Detection, Notification, and Reporting, addresses how offenders may report an allegation of sexual abuse or sexual harassment. Offenders can report verbally, in writing, by calling or writing the Office of Internal Affairs, and by third party.

The CDCR maintains an external reporting system through the Office of the Inspector General (OIG). Offenders can write or call the OIG Ombudsman. Offenders are advised on multiple ways to report. Information is included in the Orientation Handbook entitled, "Sexual Abuse/Assault – Prevention and Intervention", posters throughout the facility, and in the sexual assault brochures entitled, "Sexual Assault Awareness", made available to offenders.

Offenders detained solely for civil immigration purposes may contact the OIG Ombudsman for information on contacting consular officials or the Department of Homeland Security. It was recommended ASP add this information into PREA related brochures, postings, and other PREA education materials.

PREA related materials were made available to the audit team in pre-audit documentation and were viewed by the audit team throughout the facility during the on-site portion of the audit.

The PREA brochure included the advisement to offenders that correspondence with the OIG was processed as legal correspondence.

The PREA brochure also included community level crisis provider contact information as well as contact information for Just Detention International (JDI).

Offender interviews revealed not all offenders were aware of community level crisis services available. None of the offenders interviewed were knowledgeable to the fact the availability of community level

crisis services is not contingent to a report of sexual abuse or sexual harassment. This information was provided to the ASP administration.

Offenders interviewed articulated a number of ways to report an incident of sexual abuse or sexual harassment, most notably, the availability of the telephone reporting system. Not all offenders were aware they could remain anonymous when making a report of sexual abuse or sexual harassment.

During the on-site portion of the audit, the telephone reporting system was tested and confirmed functioning by a member of the audit team.

The auditor contacted Just Detention International (JDI) prior to the on-site portion of the audit for any useable audit information or advisement. There was no useable audit information or advisement provided by JDI.

## Standard 115.52: Exhaustion of administrative remedies

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

#### 115.52 (a)

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

#### 115.52 (b)

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

#### 115.52 (c)

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

#### 115.52 (d)

- Does the agency issue a final agency decision on the merits of any portion of a grievance alleging sexual abuse within 90 days of the initial filing of the grievance? (Computation of the 90-day time period does not include time consumed by inmates in preparing any administrative appeal.) (N/A if agency is exempt from this standard.)  Yes  No  NA
- If the agency claims the maximum allowable extension of time to respond of up to 70 days per 115.52(d)(3) when the normal time period for response is insufficient to make an appropriate decision, does the agency notify the inmate in writing of any such extension and provide a date by which a decision will be made? (N/A if agency is exempt from this standard.)  
 Yes  No  NA
- At any level of the administrative process, including the final level, if the inmate does not receive a response within the time allotted for reply, including any properly noticed extension, may an inmate consider the absence of a response to be a denial at that level? (N/A if agency is exempt from this standard.)  Yes  No  NA

#### 115.52 (e)

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

#### 115.52 (f)

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

- After receiving an emergency grievance described above, does the agency issue a final agency decision within 5 calendar days? (N/A if agency is exempt from this standard.)  
 Yes    No    NA
- Does the initial response and final agency decision document the agency's determination whether the inmate is in substantial risk of imminent sexual abuse? (N/A if agency is exempt from this standard.)  Yes    No    NA
- Does the initial response document the agency's action(s) taken in response to the emergency grievance? (N/A if agency is exempt from this standard.)  Yes    No    NA
- Does the agency's final decision document the agency's action(s) taken in response to the emergency grievance? (N/A if agency is exempt from this standard.)  Yes    No    NA

### 115.52 (g)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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ASP is not exempt from this standard.

CCR Title 15, Article 8, Appeals, notes, a grievance which in whole or part alleges sexual violence or staff sexual misconduct shall be processed as an emergency grievance. If the initial determination made by the Hiring Authority determines the offender is in imminent risk of sexual abuse, the Hiring Authority shall take immediate corrective action. CDCR does not impose a time limit on offenders for submitting a grievance regarding sexual abuse. Offenders do not have to submit the grievance to the alleged staff or offender perpetrator, or subject of the grievance. The grievance process does not require an offender to use any informal process, or otherwise attempt to resolve with staff, an incident of sexual abuse. Grievances are not referred to the staff member who is subject of the complaint.

The offender is provided an initial response from the appeals coordinator within (48) hours noting if the grievance is being processed as an emergency staff-on-offender or offender-on offender complaint. A risk assessment is completed and documented within (48) hours. Within (5) calendar days the Hiring Authority provides the offender a response indicating the determination of whether or not the offender was in imminent risk of sexual abuse and the actions taken in response to the grievance.

The Hiring Authority provides the offender a determination in writing within (5) calendar days, of the action(s) taken in response to the grievance and the determination made whether or not the offender was in imminent risk of sexual abuse.

The agency may claim, “conditions of exceptional delay exist” and extend a response to the offender by (30) day increments not to exceed (160) days from the date the grievance was received by the appeals coordinator. Written notification is made to the offender to include an estimated completion date.

The offender may consider an absence of a timely response at any level, to include a properly noticed extension, a denial at that level.

DOM Chapter 5, Article 44, Section 54040.7.2, Notification via Third party Reporting of Misconduct Against an Employee, Contractor, or Volunteer, notes, third parties, to include fellow offenders, staff members, family members, attorneys, and outside advocates are allowed to assist offenders in filing requests and may submit such requests for administrative remedies relating to allegations of sexual abuse.

The same policy notes, after the third party allegation is received, the offender is interviewed by a supervisory level staff member to assess housing needs. The allegation is referred to the Hiring Authority who forwards the allegation to the facility LDI for investigation. The LDI will make the determination whether or not to notify OIA.

DOM Chapter 5, Article 44, Section 54040.15.1, Alleged Victim – False Allegations, notes, the facility may discipline an offender for making a false report of sexual violence or staff sexual misconduct noting; “Following the investigation into sexual violence, or staff sexual misconduct, if it is determined that the allegations made were not in good faith or based upon a reasonable belief that the alleged conduct occurred, the offender making the allegations may be subject to disciplinary action.”

During interviews with offenders, there was no offender who mentioned the grievance (appeal) process in regard to PREA at ASP.

Staff interviewed were able to articulate the grievance (appeal) process.

## **Standard 115.53: Inmate access to outside confidential support services**

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

#### **115.53 (a)**

- Does the facility provide inmates with access to outside victim advocates for emotional support services related to sexual abuse by giving inmates mailing addresses and telephone numbers,

including toll-free hotline numbers where available, of local, State, or national victim advocacy or rape crisis organizations?  Yes  No

- Does the facility provide persons detained solely for civil immigration purposes mailing addresses and telephone numbers, including toll-free hotline numbers where available of local, State, or national immigrant services agencies?  Yes  No
- Does the facility enable reasonable communication between inmates and these organizations and agencies, in as confidential a manner as possible?  Yes  No

#### 115.53 (b)

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

#### 115.53 (c)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

DOM Chapter 5, Article 44, Section 54040.8.2, Victim Advocate and Victim Support Person for Medical Examinations, notes, "A Memorandum of Understanding (MOU) between the institution and Local Rape Crisis Center (Victim Advocate) shall be established to ensure that both agencies understand their roles and responsibilities when responding to sexual violence or staff sexual misconduct."

DOM Chapter 5, Article 44, Section 54040.8.2, Victim Advocates for Emotional Support Services, notes, “For persons detained solely for civil immigration purposes, information for the appropriate immigrant services agency shall be provided by staff. The facility shall enable reasonable communication between inmates and these organizations and agencies, in as confidential manner as possible.”

Offenders detained solely for civil immigration purposes may also contact the OIG for information on local consular officials or the Department of Homeland Security. The recommendation was made to have this information added to offender PREA related materials and postings.

ASP utilizes the Kings County Action Organization (KCAO) as the community level victim advocate for emotional support services. ASP currently has an established Memorandum of Understanding (MOU) with KCAO for these services.

ASP maintains postings throughout the facility providing contact information and guidance on how to obtain KCAO services. The postings advise offenders communication with the KCAO will be handled as “privileged communication”.

ASP provided a copy of the MOU with KCAO and a copy of the emotional support services poster as supporting documentation for this standard.

ASP also provided photographs of such postings throughout the facility prior to the on-site portion of the audit. The postings were viewed throughout the facility during the facility tour.

Contact information for KCAO is also contained within the sexual assault brochure provided to the offender population.

The majority of offenders interviewed related they were aware of the community level emotional support services due to the postings of such services throughout the facility or information provided to them at intake.

PREA related materials and postings were available in English and in Spanish.

A KCAO representative was interviewed and explained services provided to ASP. There were no reported correspondences from or to offenders at ASP.

## **Standard 115.54: Third-party reporting**

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

#### **115.54 (a)**

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

## Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

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DOM Chapter 5, Article 44, Section 54040.7.2, Notification via Third Party Reporting Misconduct Against an Employee, Contractor, or Volunteer, and Section 54040.7.3, Notification via Third Party Reporting of Sexual Violence or Sexual Harassment Against an Offender, outline the process for responding to third party reports of offender sexual abuse and sexual harassment.

The process is initiated by the report being forwarded to the Hiring Authority who in turn forwards the complaint to an ISU LDI. For cases involving staff, after initial inquiry by the LDI, the determination is then made by the LDI whether or not to involve the Office of Internal Affairs (OIA). The entire process is documented by the LDI and/or OIA.

The CDCR publishes the third party reporting process on the agency web site:

<http://www.cdcr.ca.gov/prea/reporting.html>

The majority of offenders interviewed acknowledged they were aware they could make a report of sexual abuse or sexual harassment to a third party.

# OFFICIAL RESPONSE FOLLOWING AN INMATE REPORT

## Standard 115.61: Staff and agency reporting duties

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

### 115.61 (a)

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

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

#### 115.61 (b)

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

#### 115.61 (c)

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

#### 115.61 (d)

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

#### 115.61 (e)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

DOM Chapter 5, Article 44, Section 54040.7, Detection, Notification, and Reporting, notes, "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."

The same policy also notes, "Staff shall ensure the reporting of information is done as soon as possible and in a confidential manner."

DOM Chapter 5, Article 44, Section 54040.8, Response, notes, "Incident specific information shall be treated as confidential, and disclosure made to employees who have a "need to know" and to no other persons and entities as permitted by law."

CCR Title 15, Section 3401.5(5)(c), Staff Sexual Misconduct, Reporting Requirements, notes, "Any employee who observes, or who receives information from any source concerning staff sexual misconduct, shall immediately report the information or incident directly to the hiring authority, unit supervisor, or highest-ranking official on duty."

CCR Title 15, Section 3401.6(c), Staff Sexual Harassment, Reporting Requirements, notes, "Any employee who observes, or who receives information from any source concerning staff sexual harassment shall immediately report the information or incident directly to the hiring authority, unit supervisor, or highest ranking-official on duty."

California Correctional Health Care Services, Inmate Medical Services Policies and Procedures, Volume I, Governance and Administration, Chapter 16, 1.16.2 Prison Rape Elimination Act Procedure, section III. Procedure A. Initial Encounter, 1. A. 3)., notes, "Notify the patient of health care staff's duty to report all allegations of sexual violence, staff sexual misconduct, and sexual harassment, and the limitations of confidentiality, at the initiation of services."

DOM Chapter 5, Article 44, Section 54040.12, Investigation, notes; "All allegations of sexual violence, staff sexual misconduct, and sexual harassment shall be investigated and the findings documented in writing."

DOM Chapter 5, Article 44, Section 54040.7.3, Notification via Third Party Reporting Sexual Violence or Sexual Harassment Against an Offender, notes, "The custody Supervisor shall forward the documented third party report of the allegation to the Locally Designated Investigator (LDI) for investigation and determination of the appropriate disposition."

CCR Title 15, Section 3084.9, Exceptions to the Regular Appeal Process; notes, when an offender files an appeal indicating being in risk of imminent sexual abuse, a risk assessment is conducted. If the determination is made the offender is in imminent risk of sexual abuse, the facility (Hiring Authority) will take immediate corrective action.

All staff interviewed were able to articulate their duty to immediately report an incident of sexual abuse or sexual harassment and information pertaining to an incident of sexual abuse or sexual harassment

was to remain confidential. Medical and Mental Health staff interviewed explained they obtain informed consent and notify offenders of their duty to report and the limits of confidentiality prior to the initiation of services.

ASP does not house offenders under the age of 18.

## Standard 115.62: Agency protection duties

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

#### 115.62 (a)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

DOM Chapter 5, Article 44, Section 54040.7, Detection, Notification, and Reporting, notes, "CDCR employees have a responsibility to protect offenders in their custody."

DOM Chapter 5, Article 44, Section 54040.7, Screening for Appropriate Placement, notes, "Any staff member with a significant concern that an offender may be subject to sexual victimization, shall immediately notify a custody supervisor who will refer that offender for a mental health evaluation..."

The ASP Shift Commander maintains the authority to take whatever measures are necessary to protect an offender who may be in imminent risk of sexual abuse.

ASP reported in the PAQ there were no incidents within the audit period where an offender was determined to be in imminent risk of sexual abuse.

All staff interviewed indicated they would notify a supervisor and take whatever measures necessary to protect an offender from sexual abuse.

The Shift Commander interviewed acknowledged he had the authority to take whatever corrective action was necessary to protect the offender from sexual abuse.

## Standard 115.63: Reporting to other confinement facilities

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

#### 115.63 (a)

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

#### 115.63 (b)

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

#### 115.63 (c)

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

#### 115.63 (d)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

DOM Chapter 5, Article 44, Section 54040.7.4, Notification from/to Other Confinement Facilities, notes, when receiving an allegation that an offender was sexually abuse while confined at another facility, the

facility head that received the allegation notifies the head of the facility or appropriate office of the agency where the alleged abuse occurred. The policy also notes the notification will be made within the (72) hour requirement of this standard. The policy requires the notification documented on the CDCR SSV-IA form.

The same policy and section notes, "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 occurred."

ASP reported in the PAQ receiving no reports of an offender being sexually abused while confined at another facility during this audit period. ASP reported (2) incidents of receiving a report of an offender being sexually abused from other facilities during this audit period.

Investigators interviewed were able to articulate their responsibility and the process of reports of sexual abuse received from and reported to other entities. The auditor reviewed all PREA related cases reported at ASP for this audit period.

## **Standard 115.64: Staff first responder duties**

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

#### **115.64 (a)**

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

#### **115.64 (b)**

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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DOM Chapter 5, Article 44, Section 54040.8, Initial Contact, notes, upon notification of an incident of sexual abuse, the first responding staff member will separate the alleged victim and abuser. The policy also notes the initial responder; "...shall make every effort to ensure the victim does not:" take any action that will destroy potential evidence, e.g., shower, brush teeth, remove clothing, etc.

DOM Chapter 5, Article 44, Section 54040.8, Crime Scene Preservation, notes, "The custody supervisor shall ensure that a perimeter has been established and an officer has been posted to keep persons out of the crime scene area."

DOM Chapter 5, Article 44, Section 54040.7, Detection, Notification, and Response, notes, "If the staff who receives the report is non-custody, he/she shall immediately notify his/her supervisor and the Watch Commander."

Custody and non-custody staff interviewed were able to articulate the steps they would take in the event of a sexual abuse incident as a first responder to include, separating the victim and alleged abuser, protecting the crime scene, and preventing the destruction of usable evidence.

CDCR PREA Training curriculum (classroom and on-the-job training) includes the required elements of this standard. ASP provided the training curriculums to the auditor for review.

## Standard 115.65: Coordinated response

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

#### 115.65 (a)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

ASP maintains a facility coordinated response protocol. The protocol is a Supplemental Operations Manual and adheres to all CDCR requirements (DOM Chapter 5, Article 44, Section 54040, Prison Rape Elimination Act) regarding prevention, detection and response to incidents of sexual abuse and sexual harassment.

The supplemental operations manual outlines the facility and agency required coordinated actions among staff first responders, medical and mental health practitioners, investigators, and facility leadership in response to an incident of sexual abuse.

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

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

#### 115.66 (a)

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

#### 115.66 (b)

- Auditor is not required to audit this provision.

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

DOM Chapter 5, Article 44, Section 54040.11, Suspect Processing, Staff on Offender, notes, "Immediate efforts shall be made to eliminate sight and sound contact between the victim and the staff member. Suspects are afforded due process; therefore, when a staff member is identified as a suspect, and before processing, contact with the Hiring Authority and OIA should be made. The Hiring Authority or designee shall determine if the employee should be placed on administrative time off consistent with departmental policy during the course of the investigation."

DOM Chapter 3, Article 22, Employee Discipline, outlines the CDCR employee disciplinary process.

The ASP Warden and CDCR Agency Head designee interviewed acknowledged the collective bargaining agreement allows the removal of staff who are alleged to have sexually abused an offender pending an investigation or determination of whether and to what extent discipline is warranted.

## Standard 115.67: Agency protection against retaliation

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

#### 115.67 (a)

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

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

#### 115.67 (b)

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

#### 115.67 (c)

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

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

#### 115.67 (d)

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

#### 115.67 (e)

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

#### 115.67 (f)

- Auditor is not required to audit this provision.

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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DOM Chapter 5, Article 44, Section 54040.13, Allegation Follow-up, outlines the agency policy to monitor and protect offenders and staff from retaliation subsequent to allegations of sexual abuse or sexual harassment. The policy also designates the facility PREA Compliance Manager (PCM) as the staff member charged with the retaliation monitoring process. The PCM has the discretion to assign monitoring duties to an ISU member or other supervisory staff. Monitoring is conducted for a period of at least 90 days. Monitoring will continue beyond 90 days if the initial monitoring indicates the need. Monitoring will conclude if the report of sexual abuse is determined to be unfounded or false. The monitoring includes staff who have reported sexual abuse of an offender and offenders who have alleged to have suffered sexual abuse. Offenders are monitored for disciplinary reports, program changes, and housing changes. Staff are monitored for negative performance reviews and staff reassignments. The PCM is required by this policy to "act promptly" to remedy any retaliation.

CCR Title 15, Subchapter 5, Article 2, Section 3401.5(g), Staff Sexual Misconduct, notes, multiple protection measures shall be considered to protect offender victims who report staff sexual misconduct or who cooperate with staff sexual misconduct investigations to include; removal of the alleged staff from contact with victims, support services, transfers, and housing changes.

CCR Title 15, Subchapter 5, Article 2, Section 3401.6(e), Staff Sexual Harassment, notes the same measures are taken for staff sexual harassment as outlined in Section 3401.5(g), Staff Sexual Misconduct.

ASP reported no incidents of staff or offender retaliation in the PAQ.

The ASP Warden and CDCR Agency Head indicated immediate protections would be provided to any staff or offender who alleges retaliation for a report of sexual abuse or sexual harassment. In regard to offenders, consideration would be given to housing changes, removal of the alleged abuser, transfers, and providing emotional support services. In cases concerning staff, removal of the alleged abuser and post assignment changes would be considered.

ASP ISU conducts monitoring for retaliation. The ISU staff member interviewed explained the monitoring process for offenders as monitoring disciplinary violations, housing changes, and program changes. Offenders are contacted by the monitor in (15) day increments for a period of (90) days. The staff monitor would extend the monitoring term if there was a need to do so.

Retaliation monitoring is documented using CDCR Form 2304, Protection Against Retaliation (PAR). The auditor reviewed a number of PAR forms while reviewing ISU case files.

Staff would be monitored for negative performance reviews and post re-assignments. Staff monitoring is documented on CDCR Form 2305. ASP reported no incidents of staff retaliation during this audit period.

## Standard 115.68: Post-allegation protective custody

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

#### 115.68 (a)

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

#### Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

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DOM Chapter 5, Article 44, Section 54040.6, Offender Housing, and CCR Title 15, Subchapter 4, Article 7, Section 3335(b) Administrative Segregation, address this standard and are in accordance with standard elements outlined in §115.43.

ASP reported in the PAQ no incidents of an offender placed in involuntary segregation pending the completion of a risk assessment or incidents of an offender placed in involuntary segregation for more than 30 days while awaiting alternative placement.

As noted in §115.43, ASP does not maintain a segregated housing unit. Offenders would be transferred to another CDCR facility. Agency and facility policy and procedures would apply as noted in §115.43.

The ASP PCM was able to explain the transfer and placement process.

## INVESTIGATIONS

### Standard 115.71: Criminal and administrative agency investigations

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

#### 115.71 (a)

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

#### 115.71 (b)

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

#### 115.71 (c)

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

#### 115.71 (d)

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

#### 115.71 (e)

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

#### 115.71 (f)

- Do administrative investigations include an effort to determine whether staff actions or failures to act contributed to the abuse?  Yes  No
- Are administrative investigations documented in written reports that include a description of the physical evidence and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings?  Yes  No

#### 115.71 (g)

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

#### 115.71 (h)

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

#### 115.71 (i)

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

#### 115.71 (j)

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

#### 115.71 (k)

- Auditor is not required to audit this provision.

#### 115.71 (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*)

#### Instructions for Overall Compliance Determination Narrative

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§115.71(a): DOM Chapter 3, Article 14, Section 31140.6, Authority to Conduct Investigations, notes, "Pursuant to Government Code Section 11182, the Secretary of the Department delegates the authority to initiate and conduct investigations to the Assistant Secretary, OIA."

The same policy and sections, 31140.11 through 3140.22, outline the protocol and procedures for investigations. The policy outlines a prompt, thorough, and objective process for investigations.

DOM Chapter 5, Article 44, Section 54040.12, Investigation, notes, "All allegations of sexual violence, staff sexual misconduct, and sexual harassment shall be investigated and the findings documented in writing."

§115.71(b): ASP investigators receive specialized training in sexual abuse investigations as required by §115.34. Facility investigators interviewed were able to articulate elements of the training they received. Training curriculum was provided to auditors for review. Investigators acknowledged they received, understood, and were able to articulate elements of the training. ASP provided documentation noting investigators completion of the training.

§115.71(c): DOM Chapter 5, Article 44, Section 54040.8.1, Crime Scene Preservation, Evidence, outline the process of evidence collection. Investigator training curriculum contains elements pertinent to crime scene preservation, direct and circumstantial evidence, electronic data, and interviews.

Interviews with investigators revealed investigations are comprehensive to include a review of resource information.

§115.71(d): DOM Chapter 5, Article 23, Section 52080.6, Referral for Criminal Prosecution, notes, "All conduct that constitutes a crime, which occurs on facility property, shall be referred by the Warden or Regional Parole Administrator (RPA) to appropriate criminal authorities for possible investigation and prosecution when there is evidence substantiating each of the elements of the crime being charged."

The CDCR Office of Internal Affairs (OIA) Investigator's Field Guide (May 2008) Version 2, Section, Criminal to Administrative Procedures, outlines the process for consulting with prosecutors in regard to compelled interviews.

DOM Chapter 3, Article 14, Section 31140.21, Administrative Investigations, notes, "In addition, the prosecuting agency shall be consulted prior to any compelled subject interview when criminal charges or court proceedings are pending."

Investigators were able to articulate elements of their training that related to compelled interviews and consultation with prosecutors.

§115.71(e): DOM Chapter 5, Article 44, Section 54040.12, Investigation, notes, "Credibility of an alleged victim, suspect, or witness must be determined based on sound facts and evidence rather than an individual's status."

Investigators related suspect and victim credibility would be judged on a case-by-case basis.

DOM Chapter 1, Section 14030.5, Who May Request a Polygraph Examination, notes, "...No person shall be ordered to take a polygraph examination. No coercion or offer of reward shall be used to induce any person to take a polygraph examination."

Investigators were able to confirm a polygraph examination would not be part of the investigation process.

§115.71(f): DOM Chapter 5, Article 44, Section 54040.12, Investigation, notes, "The investigator will include an effort to determine whether staff actions or failure to act contributed to the abuse. The Confidential Memorandum will include: 1) a description of the physical and testimonial evidence; 2) the reason behind credibility assessments; and 3) the investigative facts and findings."

Investigators related all evidence and information related to any staff members failure to act or staff actions that contributed to abuse would be included in their report.

§115.71(g): ISU and OIA criminal and administrative investigations are documented in written reports which contain description(s) of physical and testimonial evidence, reasoning behind credibility assessments, and all other inclusive facts.

The auditor reviewed investigation reports during the on-site portion of the audit to validate elements of this standard.

§115.71(h): DOM Chapter 3, Article 14, Section 31140.20, Criminal Investigations, notes, "Upon completion of the investigation, if probable cause exists to believe that a crime has been committed, the investigation shall be referred to the appropriate agency for prosecution."

Investigators interviewed were able to articulate the process for referring cases for prosecution.

§115.71(i): DOM Chapter 5, Article 44, Section 54040.17, Records Retention, notes, records to include PREA related matters will be retained according to the CDCR Records Retention Schedule (RRS).

DOM Chapter 5, Article 44, Section 54040.20, PREA Data Storage and Destruction, notes; "...PREA data collected shall be maintained for 10 years after the date of the initial collection."

A CDCR memorandum was provided as documentation noting updates to the CDCR RRS. The memorandum noted, "The investigatory file is to be retained 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."

§115.71(j): DOM Chapter 5, Article 44, Section 54040.12, Investigation, notes, "The departure of the alleged suspect or victim from the employment or control of the CDCR shall not provide a basis for terminating an investigation."

§115.71(k): The auditor is not required to audit this provision.

§115.71(l): CDCR ISU and OIA conduct all administrative and criminal sexual abuse investigations within the CDCR therefore this provision is not applicable.

The investigators interviewed explained, upon notification of an incident of sexual abuse or sexual harassment investigations are initiated and completed on a case-by-case basis.

The ASP Warden, PCM, ISU Supervisor and CDCR Agency Head interviewed were able to explain the elements of the investigations process.

## **Standard 115.72: Evidentiary standard for administrative investigations**

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

#### **115.72 (a)**

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

### **Auditor Overall Compliance Determination**

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

### Instructions for Overall Compliance Determination Narrative

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DOM Chapter 5, Article 44, Section 54040.12, Investigation, notes, “All allegations of sexual violence, staff sexual misconduct, and sexual harassment shall be investigated and the findings documented in writing. No standard higher than the preponderance of evidence is to be used when determining whether allegations of sexual abuse or sexual harassment are sustained.”

Investigators were able to articulate the “preponderance” standard during interviews.

## Standard 115.73: Reporting to inmates

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

#### 115.73 (a)

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

#### 115.73 (b)

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

#### 115.73 (c)

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

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

#### 115.73 (d)

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

#### 115.73 (e)

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

#### 115.73 (f)

- Auditor is not required to audit this provision.

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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DOM Chapter 5, Article 44, Section 54040.12.5, Reporting to Offenders, notes, “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.” Investigators and the ASP PCM were able to articulate this element during interviews. The same policy notes the following, absent a determination the allegation was unfounded:

- The offender is notified if the staff member is no longer posted within the offender’s living unit;
- The staff member is no longer employed at the facility;
- The staff member was indicted for the alleged staff sexual misconduct; or
- The staff member was convicted of the alleged staff sexual misconduct.

The same policy notes in cases of offender-on-offender sexual abuse, the facility will inform the offender victim if the alleged abuser was indicted for the alleged sexual violence, or convicted of the charge.

The offender victim is not notified if the offender victim has been released from custody or the disposition of the investigation was determined to be unfounded.

§115.73(b): This provision is not applicable.

Notifications are documented and contained within the ISU case files.

ASP noted in the PAQ there were (7) cases completed within this audit period and reported (7) incidents where the offender victim was notified verbally and in writing.

The auditor reviewed (8) cases which contained the notification to offender documents. The additional case was submitted after the PAQ was provided to the audit team.

Investigators interviewed were able to explain the notification to offender process subsequent to a sexual abuse investigation. The auditor viewed examples of such notifications during review of ISU case files.

## DISCIPLINE

### Standard 115.76: Disciplinary sanctions for staff

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

**115.76 (a)**

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

**115.76 (b)**

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

**115.76 (c)**

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

**115.76 (d)**

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

**Auditor Overall Compliance Determination**

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

**Instructions for Overall Compliance Determination Narrative**

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CCR Division 3, Subchapter 5, Article 2, Section 3405.5, Staff Sexual Misconduct, and Section 3405.6, Staff Sexual Harassment, both note, all allegations of staff sexual misconduct and staff sexual harassment, "...shall be subject to review and investigation, and when appropriate, to disciplinary action and/or criminal prosecution."

DOM Chapter 3, Article 22, Section 33030.17, Applying the Employee Disciplinary Matrix, provides the employee disciplinary process and matrix for incidents of staff misconduct. CDCR disciplinary policies relating to sexual abuse and sexual harassment are commensurate with the acts committed and relevant to the staff member's disciplinary history. Sanctions imposed are comparable to staff with similar disciplinary histories. Criminal violations of the CDCR sexual abuse and sexual harassment policies are reported to the appropriate law enforcement entity.

DOM Chapter 5, Article 44, Section 54040.12.3, Reporting to Outside Agencies, notes, "All terminations for violations of agency staff 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."

DOM Chapter 5, Article 44, Section 54040.12.4, Reporting to Outside Agencies for Contractors, notes, "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."

The ASP Warden, Institutional Personnel Officer, and Agency Head were able to explain the disciplinary process for staff to include contractors and volunteers during their interviews.

ASP reported in the PAQ there were no incidents of staff who violated the agency sexual abuse or sexual harassment policy, terminated for violating the same, disciplined short of termination, or who were reported to law enforcement or relevant licensing bodies during this audit period.

Interviews and document review revealed no discrepancy with the reported PAQ data.

## **Standard 115.77: Corrective action for contractors and volunteers**

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

#### **115.77 (a)**

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

#### **115.77 (b)**

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

### **Auditor Overall Compliance Determination**

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

### Instructions for Overall Compliance Determination Narrative

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DOM Chapter 5, Article 44, Section 54040.12.4, Reporting to Outside Agencies for Contractors, notes, “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.”

DOM Chapter 10, Article 9, Section 101090.9, Termination, notes, “The hiring authority may limit or discontinue activities of any volunteer or volunteer group which may impede the security and/or orderly operation of the institution/region.”

The CDCR Contract Agreement (Special Terms and Conditions) for contractors, Exhibit D, Page 26, Section, Prison Rape Elimination Act Policy, notes, “Any contract employee who appears to have engaged in sexual misconduct of an inmates 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.”

The ASP PAQ reported no incidents of contractors or volunteers reported to law enforcement or relevant licensing bodies for engaging with sexual abuse of offenders during this audit period.

Information from interviews with administrative and investigations staff appeared to support the information reported in the PAQ. Administrative staff and investigators were able to articulate elements of CDCR policies related to contractors and volunteers in regard to incidents of sexual abuse and sexual harassment.

## Standard 115.78: Disciplinary sanctions for inmates

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

### 115.78 (a)

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

**115.78 (b)**

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

**115.78 (c)**

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

**115.78 (d)**

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

**115.78 (e)**

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

**115.78 (f)**

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

**115.78 (g)**

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

**Auditor Overall Compliance Determination**

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

## Instructions for Overall Compliance Determination Narrative

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DOM Chapter 5, Article 44, Section 54040.15, Disciplinary Process, notes, "Upon completion of the investigative process, which includes referral for criminal prosecution and classification determinations, shall be followed."

Disciplinary sanctions imposed are commensurate with the nature and circumstances of the abuse committed such as the offender's disciplinary history, and sanctions imposed for comparable offenses by other offenders with similar histories.

DOM Chapter 5, Article 44, Section 54040.7, Referral for Mental Health Screening, notes, offender victims and perpetrators of sexual abuse are referred to mental health for consideration of necessary therapy to include recommendation(s) for specific programming designed to address underlying motivational factors.

Interviews with mental health staff indicated offenders referred are provided individualized care and treatment.

CDCR disciplines offenders for sexual contact with staff who do not consent.

CDCR does not discipline an offender for a report of sexual abuse made in good faith regardless if the results of the investigation determine the allegation was unsubstantiated.

DOM Chapter 5, Article 44, Section 54040.15.1, Alleged Victim – False Allegations, notes, "Following the investigation into sexual violence or staff sexual misconduct, if it is determined that the allegations made were not in good faith or based upon a reasonable belief that the alleged conduct occurred, the offender making the allegations may be subject to disciplinary action."

CCR Title 15, Division 3, Chapter I, Article I, Section 3007, Sexual Behavior, notes, "Inmates may not participate in illegal sexual acts. Inmates are excluded in laws, which remove legal restraints from acts between consenting adults..."

Staff interviewed were able to articulate the process in regards to discipline for an offender who commits sexual abuse. A number of staff expressed concern with the CDCR process of providing condoms to offenders noting the prohibition in policy and disciplinary process for sexual acts among offenders.

## MEDICAL AND MENTAL CARE

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

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

### 115.81 (a)

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

### 115.81 (b)

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

### 115.81 (c)

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

### 115.81 (d)

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

### 115.81 (e)

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

## Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

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DOM Chapter 5, Article 44, Section 54040.7, Referral for Mental Health Screening, notes, "If it is reported by an offender during the initial intake risk 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."

The audit team reviewed a number of referral forms during the on-site portion of the audit. Staff interviews indicated the offender would also receive a medical assessment subsequent to the referral.

California Correctional Health Care Services, Inmate Medical Services Policies and Procedures (IMSP&P), Volume I, Governance and Administration, Chapter 16, 1.16.2; Prison Rape Elimination Act Procedure, notes, offenders are provided emergency and follow-up treatment to include referrals for care. The same policy provides medical and mental health practitioners shall obtain informed consent from offenders 18 years of age or older before reporting information about prior sexual victimization that did not occur in an institutional setting. If the offender is under the age of 18, the practitioner will obtain a Prison Rape Elimination Act Authorization for Release of Information form (CDCR 7552) from the offender.

CDCR Agency Memorandum dated December 5, 2017, notes, "Medical or Mental health information related to sexual victimization or abusiveness that occurred in an institutional setting, is strictly limited to medical and mental health practitioners via Electronic Unit Health Record (eUHR). The only staff allowed access to the eUHR are specific medical and mental health staff."

Medical and Mental Health staff were able to articulate the process of informed consent and the level of confidentiality required for medical and mental health information.

## **Standard 115.82: Access to emergency medical and mental health services**

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

#### **115.82 (a)**

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

#### **115.82 (b)**

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

#### 115.82 (c)

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

#### 115.82 (d)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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California Correctional Health Services, Volume 4, Medical Services, Chapter 12, Emergency Medical Response, Section 4.12.1, Emergency Medical Response System Policy, outlines the policy, protocol and guidelines which provides for unimpeded access to health care treatment for offenders. Treatment services are provided according to practitioners professional judgement. Offender health care services are provided 24 hours a day at ASP.

Security staff notify the appropriate health care services and provide protection and assistance to offenders pending triage and treatment by health care practitioners.

California Correctional Health Care Services, Inmate Medical Services Policies and Procedures (IMSP&P) Volume I, Governance and Administration, Chapter 16, 1.16.2, Prison Rape Elimination Act

Procedure, outlines procedures for offering offenders timely access to emergency contraception and sexually transmitted infections prophylaxis.

California Health Care Services Volume I; Governance and Administration, Chapter 10. Section 1.10, Copayment Program Policy, provides offender victims are provided health care services without financial cost.

Medical and mental health supervisors and staff acknowledged medical and mental health services are provided at no cost to offenders who are victims of sexual abuse.

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

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

#### **115.83 (a)**

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

#### **115.83 (b)**

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

#### **115.83 (c)**

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

#### **115.83 (d)**

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

#### **115.83 (e)**

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

#### **115.83 (f)**

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

### 115.83 (g)

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

### 115.83 (h)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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California Correctional Health Services, Volume 4, Medical Services, Chapter 12, Emergency Medical Response, Section 4.12.1, Emergency Medical Response System Policy, outlines the policy, protocol and guidelines, which provides unimpeded access to health care treatment. Treatment services are provided according to practitioner's professional judgement.

DOM Chapter 5, Article 44, Section 54040.8.3; Medical Services Responsibilities, outlines emergency medical responsibilities of CCHS medical staff for offender victims of sexual abuse.

The MHSDS Program Guide, Chapter I, notes staff shall refer offenders who are victims of sexual abuse to mental health services.

DOM Chapter 5, Article 44, Section 54040.10, Mental Health Responsibilities, outlines mental health staff responsibilities regarding treatment for an offender who has suffered sexual abuse.

CDCR medical and mental health policies allow for follow-up and continued care for offenders who are transferred to another facility or released from custody.

The medical and mental health care is consistent with community level care. A number of medical and mental health staff interviewed expressed the opinion the medical and mental health care offenders receive at ASP is “better” than community level care.

§115.83(d), (e) are N/A.

Offender victims of sexual abuse are offered tests for sexually transmitted infections as medically appropriate.

Treatment services are provided to offender victims without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.

ASP conducts a medical and mental health evaluation of all offenders upon intake. Offenders are also screened for risk of sexual victimization and abusiveness upon intake. Staff referrals are made to medical and mental health upon disclosure of prior victimization or abusiveness.

Medical and mental health staff interviewed were able to articulate policy elements and services offered to offenders at ASP to include emergency and follow-up medical and mental health care.

## DATA COLLECTION AND REVIEW

### Standard 115.86: Sexual abuse incident reviews

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

#### 115.86 (a)

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

#### 115.86 (b)

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

#### 115.86 (c)

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

#### 115.86 (d)

- Does the review team: Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse?  Yes  No

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

### 115.86 (e)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

DOM Chapter 5, Article 44, Section 54040.17, Institutional PREA Review Committee (IPRC), sets forth the CDCR policy governing the sexual violence and staff sexual misconduct incident review process.

The policy requires an incident review of every sexual violence or staff sexual misconduct allegation. A review is not required by the policy for allegations that have been determined to be unfounded.

The IPRC meets monthly to review PREA cases and ensures all cases have been reviewed within (60) days of the date of discovery.

The IPRC is comprised of the following staff:

- Hiring Authority or designee, as chairperson and final decision maker;
- PREA Compliance Manager;
- At least one other manager;
- In-Service Training manager;
- Health Care Clinician;
- Mental Health Care Clinician; and
- Incident Commander or Investigative Services Unit Supervisor.

The IPRC considers:

- Whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse;
- 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;
- Examines the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse;
- Assesses staffing levels in that area during different shifts; and
- Assesses whether monitoring technology should be deployed or augmented to supplement supervision by staff.

The IPRC generates a report of its findings in accordance with elements of this standard. The report contains recommendations for improvement. The report also provides if the facility implements recommendations and/or the reason(s) the recommendations were not implemented. The report is provided to the appropriate Associate Director upon approval from the Hiring Authority.

The auditor reviewed a number of IPRC reviews. A member of the IPRC interviewed was able to articulate the IPRC process.

## **Standard 115.87: Data collection**

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

### **115.87 (a)**

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

#### 115.87 (b)

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

#### 115.87 (c)

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

#### 115.87 (d)

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

#### 115.87 (e)

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

#### 115.87 (f)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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DOM Chapter 5, Article 44, Section 54040.17, Departmental PREA Coordinator, notes the CDCR PREA Coordinator will collect accurate and uniform data for every allegation of sexual abuse at each facility to include facilities contracted with for confinement of offenders.

DOM Chapter 5, Article 44, Section 54040.19, Tracking – Data Collection and Monitoring, outlines the procedure for tracking sexual violence and staff sexual misconduct information (data) at the facility level. The information is compiled and entered into the CDCR Yearly Tracking Report (YTR), which is then submitted to the CDCR PREA Coordinator by the fifth day of each month.

The CDCR utilizes the U.S. Department of Justice (DOJ) Bureau of Justice Statistics (BJS) Survey of Sexual Victimization (SSV) tool to collect data. The agency also maintains, reviews, and collects data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews. The ISU Lieutenant or LDI is responsible for completing the SSV.

The CDCR PREA Coordinator aggregates the data for each facility on an annual basis.

Upon request, the CDCR PREA Coordinator provides the data to the DOJ no later than June 30 of each calendar year.

The CDCR PREA Coordinator was able to articulate the process for aggregating agency data and reporting to the DOJ.

ASP provided supporting documentation which included CDCR aggregated PREA data for calendar years 2015 and 2016. The CDCR PREA Coordinator was able to articulate elements of the SSV and data reporting processes.

## Standard 115.88: Data review for corrective action

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

#### 115.88 (a)

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

#### 115.88 (b)

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

#### 115.88 (c)

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

#### 115.88 (d)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

DOM Chapter 5, Article 44, Section 54040.17, Departmental PREA Coordinator, notes the CDCR PREA Coordinator collects and aggregates data for all CDCR facilities and facilities contracted with for the confinement of offenders.

The agency also maintains, reviews, and collects data as needed from all available incident-based documents, including reports, investigation files, sexual abuse incident reviews and audits. The data allows the CDCR to identify problem areas and the ability to take corrective action measures on an on-going basis.

The CDCR PREA Coordinator prepares an annual report of findings and corrective actions for each facility, and the agency as a whole. The report includes a comparison of the current year's data and corrective actions with the data from previous years. The report includes an assessment of the agency's efforts and progress in addressing sexual abuse. The report is approved by the agency head and is posted on the agency website.

DOM Chapter 5, Article 44, Section 54040.20, PREA Data Storage and Destruction, notes, "Before making aggregated PREA data publicly available, all personal identifiers shall be removed."

The CDCR PREA Coordinator was able to articulate the data collection process.

## Standard 115.89: Data storage, publication, and destruction

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

#### 115.89 (a)

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

#### 115.89 (b)

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

#### 115.89 (c)

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

#### 115.89 (d)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

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

DOM Chapter 5, Article 44, Section 54040.20, PREA Data Storage and Destruction, outlines the CDCR requirement that all PREA data collected is securely maintained. Within the CDCR, staff are given specific permission levels to access and resource agency information and data. The policy also requires all personal identifiers removed before making aggregated PREA data publicly available and requires all PREA data collected maintained for 10 years after the date of the initial collection.

The CDCR makes all aggregated sexual abuse data, from facilities under its direct control and private facilities with which it contracts, readily available to the public annually through its website.

The CDCR PREA Coordinator was able to articulate the PREA data process, from collection to posting to the agency website.

The auditor reviewed PREA data on the CDCR website.

## AUDITING AND CORRECTIVE ACTION

### Standard 115.401: Frequency and scope of audits

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

#### 115.401 (a)

- During the prior three-year audit period, did the agency ensure that each facility operated by the agency, or by a private organization on behalf of the agency, was audited at least once? (*Note: The response here is purely informational. A "no" response does not impact overall compliance with this standard.*)  Yes  No

#### 115.401 (b)

- Is this the first year of the current audit cycle? (*Note: a "no" response does not impact overall compliance with this standard.*)  Yes  No
- If this is the second year of the current audit cycle, did the agency ensure that at least one-third of each facility type operated by the agency, or by a private organization on behalf of the agency, was audited during the first year of the current audit cycle? (N/A if this is **not** the *second* year of the current audit cycle.)  Yes  No  NA
- If this is the third year of the current audit cycle, did the agency ensure that at least two-thirds of each facility type operated by the agency, or by a private organization on behalf of the agency, were audited during the first two years of the current audit cycle? (N/A if this is **not** the *third* year of the current audit cycle.)  Yes  No  NA

#### 115.401 (h)

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

#### 115.401 (i)

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

#### 115.401 (m)

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

#### 115.401 (n)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

During the prior three-year audit cycle, the CDCR did not have each facility operated by the agency, or by a private organization operated on behalf of the agency audited for compliance with the PREA Standards.

ASP was audited for this report during the second year of the current audit cycle.

The CDCR had at least one-third of each facility type operated by the agency, or by a private organization on behalf of the agency audited during the first year of the current audit cycle.

During the audit of ASP, the audit team was provided access to, and the ability to observe all areas of the facility.

The auditor requested and received copies of all relevant documents to include electronically stored information.

The audit team was permitted to conduct private interviews with offenders.

Offenders were permitted to send confidential information or correspondence to the auditor in the same manner as if they were communicating with legal counsel. The auditor received confidential correspondence from two (2) ASP offenders. The auditor conducted interviews with the offenders.

## Standard 115.403: Audit contents and findings

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

#### 115.403 (f)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

CDCR PREA audit reports for the past three years have been posted on the agency website.

The auditor reviewed past CDCR audit reports.

## 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.<sup>1</sup> Auditors are not permitted to submit audit reports that have been scanned.<sup>2</sup> See the PREA Auditor Handbook for a full discussion of audit report formatting requirements.

Mark A. Mora

March 27, 2019

**Auditor Signature**

**Date**

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

<sup>2</sup> See *PREA Auditor Handbook*, Version 1.0, August 2017; Pages 68-69.