

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

Interim       Final

**Date of Report**    July 10, 2019

### Auditor Information

Name: Mark A. Mora	Email: mark.mora@ks.gov
Company Name: Kansas Department of Corrections	
Mailing Address: 714 SW Jackson	City, State, Zip: Topeka, Kansas 66603
Telephone: 620-728-3374	Date of Facility Visit: January 8-11, 2019

### 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, Sacramento, California 95811	City, State, Zip: Sacramento, California 95811
Mailing Address: PO Box 94283-0001, Sacramento, California 94283	City, State, Zip: Sacramento, California 94283
Telephone: 916-985-2561	Is Agency accredited by any organization? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
The Agency Is:	<input type="checkbox"/> Military <input type="checkbox"/> Private for Profit <input type="checkbox"/> Private not for Profit <input type="checkbox"/> Municipal <input type="checkbox"/> County <input checked="" type="checkbox"/> State <input type="checkbox"/> Federal
Agency mission: "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: <a href="http://www.cdcr.ca.gov/facilities">www.cdcr.ca.gov/facilities</a>	

### Agency Chief Executive Officer

Name: Ralph Diaz	Title: Secretary
Email: ralph.diaz@cdcr.ca.gov	Telephone: 916-323-6688

### 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>	Wasco State Prison - Reception Center		
<b>Physical Address:</b>	701 Scofield Avenue, Wasco, California 93280		
<b>Mailing Address (if different than above):</b>	701 Scofield Avenue, P.O. Box 8800, Wasco, California 93280		
<b>Telephone Number:</b>	661-758-8400		
<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>	Wasco has a diverse mission with an emphasis on Reception Center processing.		
<b>Facility Website with PREA Information:</b>	www.cdcr.ca.gov/PREA		

### Warden/Superintendent

<b>Name:</b> John Sutton	<b>Title:</b> Warden
<b>Email:</b> john.sutton@cdcr.ca.gov	<b>Telephone:</b> 661-758-8400 ext. 5002

### Facility PREA Compliance Manager

<b>Name:</b> James D. White	<b>Title:</b> Associate Warden
<b>Email:</b> james.white@cdcr.ca.gov	<b>Telephone:</b> 661-758-8400 ext. 5011

### Facility Health Service Administrator

<b>Name:</b> David Hill	<b>Title:</b> Chief Executive Officer
<b>Email:</b> david.hill@cdcr.ca.gov	<b>Telephone:</b> 661-758-8400 ext.5709

### Facility Characteristics

<b>Designated Facility Capacity:</b> 2984	<b>Current Population of Facility:</b> 4904
<b>Number of inmates admitted to facility during the past 12 months</b>	18555

<b>Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 30 days or more:</b>		13257
<b>Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 72 hours or more:</b>		13257
<b>Number of inmates on date of audit who were admitted to facility prior to August 20, 2012:</b>		Unknown
<b>Age Range of Population:</b>	<b>Youthful Inmates Under 18:</b> N/A	<b>Adults:</b> 18-81
<b>Are youthful inmates housed separately from the adult population?</b>		<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NA
<b>Number of youthful inmates housed at this facility during the past 12 months:</b>		N/A
<b>Average length of stay or time under supervision:</b>		N/A
<b>Facility security level/inmate custody levels:</b>		Level I-IV
<b>Number of staff currently employed by the facility who may have contact with inmates:</b>		1507
<b>Number of staff hired by the facility during the past 12 months who may have contact with inmates:</b>		174
<b>Number of contracts in the past 12 months for services with contractors who may have contact with inmates:</b>		6
<b>Physical Plant</b>		
<b>Number of Buildings:</b> 29		<b>Number of Single Cell Housing Units:</b> 1
<b>Number of Multiple Occupancy Cell Housing Units:</b>		28
<b>Number of Open Bay/Dorm Housing Units:</b>		11
<b>Number of Segregation Cells (Administrative and Disciplinary):</b>		100
<b>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.):</b>		
See Standard 115.15.		
<b>Medical</b>		
<b>Type of Medical Facility:</b>		Correctional Treatment Center (CTC)
<b>Forensic sexual assault medical exams are conducted at:</b>		Forensic Nurse Specialist of Central California
<b>Other</b>		
<b>Number of volunteers and individual contractors, who may have contact with inmates, currently authorized to enter the facility:</b>		1222
<b>Number of investigators the agency currently employs to investigate allegations of sexual abuse:</b>		14

# Audit Findings

## 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 Wasco State Prison (WSP) was conducted January 8 through January 11, 2019 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 certified PREA Auditor Doug Lawson, Kansas State PREA Coordinator Peggy Steimel, Unit Team Manager Electra Knowles, and Staff Development Manager Kent Schmidt. Doug Lawson, Peggy Steimel, Electra Knowles, and Kent Schmidt 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 (KDOC) and the California Department of Corrections and Rehabilitation (CDCR) were in a circular audit agreement at the time of the PREA audit.

The notice of audit was posted throughout the Wasco State Prison on November 27, 2018. The audit team was provided photographs of the audit posting throughout the facility. The audit notice advised the purpose of the audit and provided auditor contact information. The auditor received (1) letter from an offender at WSP after the on-site portion of the audit. The offender was not interviewed during the audit however, WSP was contacted regarding information the offender's correspondence contained.

Pre-Audit documentation and the WSP Pre-Audit Questionnaire was provided to the audit team on November 27, 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 WSP staff prior to the on-site portion of the audit for clarification of audit materials received and to request additional supporting documentation materials. WSP responded in a timely manner to the audit team's requests.

The lead auditor contacted Just Detention International (JDI) prior to the on-site portion of the audit to obtain any useable information.

The audit team arrived at the Wasco State Prison the morning of January 8, 2019. The audit team met with CDCR Agency PREA Staff, the WSP administrators to include the Warden, Associate Wardens, and the WSP PREA Compliance Manager (PCM).

Following the meeting the WSP administrators the audit team conducted the site review of WSP. The audit team conducted the review in two groups. The site review included observation of all living units, education and program areas, laundry and private industry areas. The audit team was able to view offender sleeping areas, toilet areas, 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 was provided a response from the reporting 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 by the audit team to conduct staff and offender interviews.

The audit team conducted the following interviews:

Offenders:

Random Offenders	27
Targeted Offenders	26

Targeted Offenders by Category:

Youthful Offenders	N/A
Disable/Limited English Proficient	10
Gay/Bisexual/Transgender/Intersex	9
Offenders Placed in Segregated Housing	0
Offenders Who reported Sexual Abuse	4
Offenders Who Disclosed Victimization During Risk Screening	3

Staff:

Random Staff	29
Specialized Staff	34

Specialized Staff by Category:

Agency Contract Administrator	1
Intermediate/Higher Level Staff	5
Medical/Mental Health Staff	9
Human Resource Staff	1
SAFE/SANE	1
Volunteers/Contractors	5
Investigative Staff	2
Staff Who Perform Risk Screening	1
Staff on Incident Review Team	2
Staff Who Monitor Retaliation	2
Staff First Responders	4
Intake Staff	1

Interviews were also conducted with the CDCR PREA Coordinator, WSP Warden, and WSP PCM. The CDCR Agency designee was unavailable for interview for the interim audit report due to scheduling issues. The CDCR agency representative was interviewed prior to issuance of the final audit report.

All PREA policies and procedures provided were reviewed for compliance. Investigation files were reviewed while on site. Cases were well written and contained all relevant information. Case files were well organized and maintained. WSP investigators were available during the file review and were able to answer questions from the auditor.

The auditor reviewed (19) Case files during the file review. WSP reported (14) cases of reported sexual abuse for the audit period however (5) cases were reviewed that involved investigations involving other institutions.

Members of the audit team conducted a debriefing with the facility administrators on the final day of the on-site portion of the audit. Corrective actions measures were discussed, questions were answered, and suggestions were made to provide WSP 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 Wasco State Prison-Reception Center (WSP) in Wasco, California sits on 634 acres of land. The facility was dedicated on February 1, 1991. WSP was the first prison specifically designed and built in the state of California as a reception center. WSP maintains a current population of approximately 4743 offenders. WSP maintains approximately 1500 employees. In addition to the Reception Center, WSP has two mainline facilities, housing level I and level III offenders inclusive with a 17 bed Correctional Treatment Center (CTC). The facility processes approximately 14,000 to 17,000 offenders a year from 12 different counties in California.

### Facility A:

Consists of five level III, 100 bed, 270 (degree) designed housing units. Facility A houses approximately 800 level III offenders. These offenders provide the work force for the institution's support services, such as kitchen, prison industry, clerical, and house keeping. Offenders in Facility A are also provided academic and vocational programs.

### Facility B:

Consists of six wing-nut designed buildings each containing 100 cells. The majority of offenders housed in these units are considered medium custody level. The housing units are eligible for Developmental Disabled offenders however; Americans with Disabilities Act (ADA) wheelchair users are accommodated in buildings 1, 5, and 6. Facility B is the primary celled reception center housing unit for offenders with mental health concerns.

### Facility C & H:

Facilities C and H are dormitory style housing units housing minimum and medium custody offenders. Facility C has four wing-nut style buildings, housing 282 offenders each. Facility H consists of four

traditional dorms, housing 190 offenders each. ADA offenders approved for dormitory housing are assigned to Facility H Dormitory I and II.

#### Facility D:

Facility D has the same design as Facility B with one additional dorm. The majority of offenders with life or significantly lengthy sentences are housed in this facility. Building six, the Administrative Segregation Unit (ASU) houses maximum custody, Security Housing (SHU), protective custody and high notoriety offenders. Offenders in the ASU are offered mental health programming.

#### Facility M:

Facility M is a Minimum Support Facility (MSF) with two tri-level units with the capacity of housing 200 offenders and a recreation yard. The MSF is a Non-Designated Programming Facility noting general population and sensitive needs yard offenders program together. Institutional support workers, offenders who provide institutional maintenance, housekeeping and landscaping outside the secure perimeter are housed at this facility. Emergency Fire Fighters are processed and assigned to the Fire House from this facility as well.

WSP is the largest reception center in the state of California. Approximately 900 offenders are assigned to the two support facilities, A and M. An offender received into the reception center is generally housed for approximately 90-120 days. During that time the offender receives medical, dental, and behavioral health evaluations. Corrections Counselors review the offender's specific case factors to determine appropriate placement. An extensive case review is also conducted considering the offender's past and current offenses, medical history and other factors to determine housing and appropriateness for placement in a general population setting.

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, Spanish, and Hmong. 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.

#### Academic Programs:

WSP provides work assignments and academic programs to the permanent offender population. Work assignments such as laundry, food service, janitorial service, and facility maintenance focus on the support needs of the facility. Academic programs at WSP focus on literacy and a three-phase Adult Basic Education (ABE) program that allows offenders to obtain a General Education Diploma (GED), or High School Diploma. Offenders are also allowed to participate in college programs.

WSP provides educational services to the offender population through Valley Rose Adult School (VRAS). VRAS is a K-14 Adult School offering the Voluntary Education Program (VEP). Students receive individual instruction based on specific learning needs. The goal of instruction is for an offender to complete their GED. Offenders are allowed courses through Bakersfield College or Coastline Community College to earn an Associate of Arts degree. Offenders are allowed to participate in the Computer and Related Technologies program. The Vocational Plumbing program provides industry certification which qualifies graduates to enter the trade immediately upon release.

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, Spanish, and Hmong. Staff

informally interviewed were able to articulate knowledge of PREA and their response to a report of sexual abuse or sexual harassment.

The audit team also toured the Fire Department and met with and informally interviewed staff and offenders. PREA related information was made available to offenders.

#### Medical and Mental Health Services:

The Correctional Treatment Center (CTC) provides medical services to offenders at WSP.

Within seven calendar days of arrival, each offender receives a complete history and physical examination by a primary care provider.

The CTC is a 16 bed facility with an additional safety cell and observation cell designed to provide care to the offender population who do not require acute care services, but require professionally supervised healthcare beyond what is normally provided in the community on an outpatient basis.

Mental health services are provided to offenders upon arrival. Offenders are screened for medication issues. Within 72 hours, an offender will receive an assessment to identify mental health issues and/or developmental disabilities. WSP reported the mental health program services approximately 1,000 offenders at WSP.

Medical specialty services are provided to offenders. WSP provides medically necessary diagnostic and specialty services in Radiology, Optometry, Podiatry, Orthopedics, Audiology, Orthotics and Physical Therapy.

The Telemedicine Program at WSP allows off-site physicians to provide services offenders at WSP. WSP also provides hemodialysis services to offenders diagnosed with Renal Disease. WSP is equipped with six dialysis stations.

The audit team toured the medical and mental health services areas. Staff were informally interviewed. Staff were able to articulate services provided and PREA related information. PREA related postings to include crisis provider information and crisis hotline telephone information was made available in these areas in English, Spanish, and Hmong.

#### Self Help Programs:

WSP offers Inmate Leisure Time Activity Groups (ILTAGS), which are self-help programs for offenders. A number of ILTAGS noted were but not limited to:

- Alcoholics Anonymous (AA)
- Narcotics Anonymous (NA)
- Criminal rehabilitation Anonymous (CRA)
- Getting Out by Going In (GOGI)
- Mastering Oral Presentation & Speech (MOPS)
- Inmates for Christian Living (ICL)
- Veterans Moving Forward (VMF)
- Lifers Group

WSP also provides Religious Programs for a diverse offender population. Congregational services, religious education and counseling are commonly provided services. WSP maintains a full time Catholic, Muslim and Protestant chaplain and one part-time Jewish chaplain.

The Friends Outside Program is a liaison service WSP has joined with other State prisons to provide a Visitor Center to support the needs of offender family members and friends. The Visitor Center provides job referrals, childcare information and materials, transportation and comfort facilities.

The Parenting Education Program is designed to reduce incidents of child abuse and neglect in high-risk parents and to set the stage for a successful unification of the family after release. The program is structured to meet court ordered parenting education guidelines.

The Anger Management Education Program is a methodology based on the theory of Cognitive Dissonance and is effective with violent offenders in reducing their antisocial attitudes with regard to violent behavior.

Community Involvement:

The Citizens Advisory Committee is a cross representation of volunteers from the local community that meet with the Warden and executive staff to discuss issues and share ideas affecting the prison and the community.

The Volunteer Advisory Committee endeavors to heighten community awareness, collaboration and understanding of the CDCR's mission to reduce recidivism and enhance the safety and security of the communities to which the offenders will return.

The Slow Down Despacio Program is an intervention program aimed at potential social deviance by raising awareness among the community youth regarding the consequences of criminal activity.

WSP staff are also actively involved in the local community with but not limited to:

- Relay for Life
- Blood drives
- Bone Marrow drives
- Special Olympics
- Annual Warden's Christmas Toy Drive
- Senior Citizen drive
- Ronald McDonald House

## 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

None

**Number of Standards Met:** 44

Click or tap here to enter text.

**Number of Standards Not Met:** 0

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

WSP was not in compliance with PREA Standard §115.41(f). WSP could not provide documentation of follow-up risk assessments for reception center offenders at WSP. Corrective action was discussed with the WSP Warden, PCM, and agency and facility administrators during the on-site and post on-site portion of the audit.

The follow-up re-assessment in accordance with §115.41(f) was not occurring at WSP for offenders in the reception and diagnostic units at WSP. The WSP administration was counseled and it was determined by CDCR agency staff, an agency directive would be initiated to provide for a follow-up risk assessment screening in order to comply with §115.41(f). The agency directive required final approval before implementation.

Corrective action included implementation of the agency directive to conduct the follow-up risk assessment screening in accordance with §115.41(f) within the corrective action period, and (90) consecutive days of continuous documentation provided to the auditor (commencing from the time the agency policy is implemented) noting follow-up risk assessments within the (30) day requirement of this standard. The documentation for corrective action would apply to all reception and diagnostic units at WSP.

The corrective action period was initiated at the issuance of the interim report which was provided to WSP on February 25, 2019. The CDCR issued an agency memorandum to CDCR facilities on March 13, 2019 to provide for training and implementation of the process for conducting the initial and follow-up risk assessments. The auditor was provided a copy of the agency directive.

The CDCR implemented procedure for conducting and tracking the initial and follow-up risk assessment on March 25, 2019.

On June 25, 2019, the corrective action period concluded. WSP provided the auditor with (90) days of data in spreadsheet format which contained the listing of offenders received at WSP within the (90) time frame. The data included a record of initial assessments and follow-up assessments which after review by the auditor appeared to be within the requirements of the standard.

WSP maintained a number of areas which contained “blind-spots” and shower areas in living units that allowed cross-gender viewing. The information below notes the areas of concern and the corrective action measures taken by WSP during the on-site portion of the audit and prior to the submission of the interim report.

- CTC/Diagnostic - Monitoring of video camera in rooms 133-136. WSP provided a Warden memorandum noting the discontinuation of monitoring by custody staff dated 2/12/2019. The auditor was provided a copy of the memorandum as supporting documentation.
- Retherm Kitchen - A security mirror was added to allow viewing behind scullery machine. (Completed 1/9/2019)
- Housing Units on Facility B/C/D (except D-7) - Privacy screens on shower stalls allowed cross-gender viewing. Privacy screens were installed to prevent cross-gender viewing. Photographs were provide to auditor on 2/19/2019.
- Administrative Segregation Unit (ASU) - Individual exercise modules allowed for cross gender viewing of toilet area. Mesh screening was added to exterior fencing and post assignment to ASU was made gender specific (male). Photographs of modifications were provided to the auditor and the policy memorandum noting the gender specific post assignment was provided to the auditor. (Completed 2/20/2019)
- Facility C Library - A large mirror was added to area behind bookshelves to allow staff viewing. A large bookcase was removed from the librarian office to allow unobstructed viewing of the library bookshelf areas. (Completed 1/9/2019). Photographs were provided to the auditor.
- Housing Unit C-1 (A-Side) restroom - The restroom on the lower B-Section was missing a bolt to hold a privacy screen. A new bolt was installed on 1/9/2019.
- Housing Unit C-2 (B-Side) restroom - The restroom on the upper B/C Section missing the privacy screen. A new privacy screen was installed on 1/9/2019.
- Housing Unit C-2 (A-Side) restroom - The restroom on lower C-Section was missing a bolt to hold the privacy screen. A new bolt was installed on 1/9/2019.
- H-Medical - The privacy screen on restroom inside door allowed cross-gender viewing. A new plastic privacy screen was installed on 2/20/2019. Photographs were provided to the auditor.
- Waste Water Plant - A blind spot existed near exit door. A small mirror was installed on 1/10/2019. Photographs were provided to the auditor.
- Firehouse - Bunks and lockers were positioned to allow blind spots. The lockers and bunks were repositioned to eliminate blind spots. A schematic was posted detailing bunk and locker positioning. A notice was also posted to offenders noting moving bunks or locker would result in disciplinary action. (Completed on 1/10/2019).
- Firehouse - Laundry room had blind spot to left and right of area. A mirror was installed to eliminate the blind spot. (Completed on 1/10/2019). Photographs were provided to the auditor.
- Facility M Canteen - There was a blind spot at the rear left side of the area. A mirror was installed to eliminate the blind spot on 1/10/2019. Photographs were provided to the auditor.
- Housing Unit A-2 - Shower curtain on lower level was too long and prevented viewing by staff. The shower curtain was shortened to knee level allowing staff viewing. (Completed 1/10/2019). Photographs were provided to the auditor.
- Facility A Canteen - There was a blind spot at the rear of the area due to supplies stacked too high. A mirror was installed to aid in staff viewing and supplies were redistributed to a level that eliminated the viewing obstruction. (Completed on 1/10/2019). Photographs were provided to the auditor.
- Main Kitchen - The windows on the restrooms had frosting on the window which prevented staff viewing into the restroom area. Some of the frosting was removed to allow for viewing into the restroom area. (Completed on 1/9/2019). Photographs were provided to the auditor.

## 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 policy for sexual abuse and sexual harassment. The policy establishes a number of guidelines and requirements for the prevention, detection and response to incidents of sexual abuse and sexual harassment.

The agency has made significant strides in evolving the policy in a positive manner.

The CDCR agency representative was interviewed. The agency designee was able to articulate PREA related elements of CDCR policy and procedure.

The CDCR maintains a PREA Coordinator who oversees PREA related matters for the agency. The CDCR PREA Coordinator was interviewed and related she has the authority to guide, implement and oversee the agency's efforts to comply with the PREA Standards. The PREA Coordinator noted CDCR was undergoing what was called the "Transgender Initiative" which would enhance the CDCR's management of transgender offenders. The Coordinator related this was very work intensive and was added to other duties of the PREA Coordinator and support staff.

The CDCR has a PREA Compliance Manager at each facility. The PREA Compliance Manager for the Wasco State Prison when interviewed acknowledged he maintained the authority to oversee and implement facility PREA compliance related matters. The Wasco State Prison PREA Compliance Manager maintained the level of Associate Warden.

## **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.*

The CDCR maintains (9) contracts for the confinement of offenders:

Tallahatchie County Correctional Facility  
La Palma Correctional Center  
Golden State Modified Community Correctional Center  
Desert View Modified Community Correctional Center  
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 were provided to the audit team as supporting documentation. Contracts were reviewed and the auditor verified the contracts provided the obligation to comply with the PREA Standards.

All CDCR contracts for confinement contain a document identified as "Exhibit D" which contains specific verbiage and requires compliance with the PREA Standards.

The auditor reviewed contract facility information and confirmed DOJ Certified Auditors have audited all the facilities noted above for compliance with the PREA Standards.

The Contract Beds Unit of the CDCR oversees and monitors the contracts for confinement of offenders. The CDCR Contract Administrator was contacted to confirm information regarding CDCR contract facilities. The CDCR contract facility PREA audit information was posted on the contract facilities websites.

The CDCR Contract Administrator was contacted. The agency contract administrator advised the CDCR maintains staff who monitor each contracted facility for compliance with the PREA Standards.

CDCR reported no contract facilities were audited within (21) months of this report.

CDCR contracted facilities were compliant within the agency's audit cycle.

## 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
- (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 WSP reflected reasons for deviation such as vacation leave, military leave, and sick leave. The deviations were noted in the Telestaff report. The audit team reviewed facility-staffing documentation.

Interviews with the CDCR agency representative, WSP Warden and State PREA Coordinator provided the staffing plan at WSP was discussed and approved and consideration was given to incorporating video monitoring systems and other monitoring technologies.

It was recommended WSP attempt to obtain additional video monitoring capabilities to enhance staff supervision. This was discussed with the WSP PCM and State PREA Coordinator.

WSP has limited video monitoring. WSP maintains video monitoring capability in the following areas:

Facility-A Visiting Room - (5) cameras monitored in the Investigative services Unit (ISU). Video is retained for (12) days.

Prison Industry Authority - (20) cameras monitored from the laundry supervisors office. The video is retained for (45) days.

Facility-A Kitchen - (2) cameras monitored in the food manager's office. The video is retained for (45) days.

Facility -A Dining Halls - (5) cameras monitored in the food manager's office. The video is retained for (45) days.

Retherm Kitchen - (1) camera monitored in the food manager's office. The video is retained for (45) days.

DOM Chapter 5, Article 44, Section 54040.4, Education and Prevention (May 15, 2018), notes, "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 audit team reviewed a number of Unit Log Books throughout the facility. There was consistency in the unannounced security rounds conducted and documented.

Staff interviewed were able to articulate how the unannounced rounds are conducted.

WSP provided a number of documents to support compliance with this standard to include: 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 WSP staffing plan analysis 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. The CDCR agency representative, State PREA Coordinator and Warden were able to articulate the staffing analysis process during interviews.

## 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

*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 Wasco 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.

There were no occurrences of cross-gender searches of any kind reported by WSP for this audit period.

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

WSP provided cross-gender pat search curriculum for the audit team to review.

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 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 54040.6, 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."

WSP maintained a number of shower areas and a recreation yard in the segregation unit that allowed for cross-gender viewing. WSP took immediate corrective action measures by adding and/or re-adjusting "privacy screens" to correct the non-compliant issues prior to the issuance of the interim report. The non-compliant issues are detailed along with the corrective measures taken in the 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 tour, the audit team noticed opposite gender announcements made within the living units by staff and via the living unit intercom system. Outside the living units, WSP had signs posting the following notice: "OPPOSITE GENDER ANNOUNCEMENT REQUIRED PER D.O.M." A number of offenders interviewed acknowledged the opposite gender announcements were being made.

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."

WSP reported in the PAQ (52%) of all security staff had received training on conducting cross-gender pat-down searches and searches of transgender and intersex offenders. WSP provided additional documentation noting (100%) of all security staff completing the training.

## 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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WSP provides offenders with disabilities equal opportunity to participate in and have access to PREA related information. Information is provided in visual, audio and written formats to offenders. WSP maintains an agreement with Interpreters Unlimited Inc., who provides interpreting services for Limited English Proficient (LEP) offenders.

DOM 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 offenders 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 54040.7, 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."

A memorandum from the CDCR Division of Adult Institutions dated October 16, 2017 was reviewed by the auditor. The memorandum contained the following in part: "...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 memo also provided in part: "...instances where an inmate's Test of Adult Basic Education (TABE) score is 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 following was noted in the CDCR Mental health Service Delivery System (MHSDS) Program Guide Overview, in Section A:

"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 quality 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 text, Braille materials, large print materials, and sign language.”

PREA education videos are provided on the offender television network within the facility and during orientation. The auditors observed PREA posters in the living units and other conspicuous areas of the facility. The postings were available in English, Spanish, and Hmong.

WSP utilizes agency certified interpreters. WSP provided documentation explaining the staff interpreter certification process. Staff interviewed were knowledgeable regarding the interpreting process for offenders. Certified staff interpreters were utilized during interviews with LEP offenders at WSP.

Interviews revealed staff were knowledgeable to the interpreting service at WSP.

There were no offenders interviewed who indicated a problem with communicating with staff. A number of offenders interviewed who qualified as disabled complained about medical services provided for their disability.

## 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 Appointments, notes in part: "...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 engaged in the activity described immediately above."

The following questions are noted in the State of California SUPPLEMENTAL APPLICATION FOR ALL EMPLOYEES (CDCR Form 1951):

"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 "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 Wasco Institutional Personnel Officer (IPO) was interviewed and confirmed adherence to the policies and regulations noted above. The audit team reviewed a number of personnel files and viewed in each file the pertinent documentation related to this standard. WSP provided a number of agency documents as supporting documentation for this standard. The IPO was well versed in human resource processes as they relate to the requirements of this standard.

## 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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WSP made expansions or modifications of the existing facility since the last PREA audit in 2016. WSP constructed (3) new medical service buildings on the existing WSP campus. WSP provided documentation noting the consideration given to the prevention of offender sexual abuse in the new construction at the facility. WSP has not installed or updated their video monitoring system, electronic surveillance system, or other monitoring technology since August 20, 2012, or since the last PREA audit in 2016.

WSP provided a memorandum dated August 14, 2017 issued by the CDCR Facility Planning, Construction and Management Division. The memorandum was a “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. It 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).”

Interviews with WSP administrative staff indicated no additional planned expansion or modifications for the facility in the near future other than the medical services buildings mentioned.

**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

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DOM Chapter 5, Article 44, Section 54040.8, Response, outlines the requirements to preserve a potential crimes scene. Investigative Services Unit (ISU) Investigators identified as Local Designated Investigator (LDI) receive training in evidence collection protocols, which allow for obtaining usable physical evidence for administrative and criminal prosecutions.

The training for LDI's regarding evidence collection is based on a number of resources to include the National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents. During interviews, investigators were able to articulate training they have received and the process of collecting and preserving evidence for administrative and criminal investigations.

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.

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 victims.

WSP utilizes Forensic Nurse Specialist of Central California as the SAFE/SANE provider. WSP provided contract documentation for these services. The provider was contacted and interviewed. The provider was able to articulate services provided to WSP.

DOM Chapter 5, Section 54040.3, Definitions, notes, when a victim advocate is not available, a designated employee will be summoned. The staff member will be certified as a rape crisis counselor, and/or a psychiatrist, psychologist, licensed clinical social worker, psychiatric mental health registered nurse, or a staff person with a master's degree in counseling. Staff utilized as victim advocates must have their training certification on file with the facility/CDCR.

Medical staff and investigators were able to articulate specific responsibilities and the process for obtaining a forensic medical examination for offenders.

Alliance Against Family Violence and Sexual Assault provides advocate (rape crisis) services to offenders at WSP. A victim advocate is notified by facility staff when an offender is provided a forensic medical examination. WSP maintains a memorandum of understanding (MOU) with Alliance Against Family Violence and Sexual Assault. WSP provided the MOU as supporting documentation.

Alliance Against Family Violence and Sexual Assault was contacted and interviewed. The provider was able to articulate services provided to WSP. The provider did indicate a concern there was more need than the agency could provide. The provider also indicated a current request for funding to provide a facility specific support person for WSP. The provider indicated, if requested by the victim, advocates accompany and support the victim through the sexual assault examination and investigatory interviews. If requested by the victim, advocates provide emotional support and follow-up information and referrals if necessary. This information was made available to the WSP administration.

The auditor noted being WSP is a reception and diagnostic facility with a significant offender population and offender movement, the increased request and need for support services would be a significant consideration for the facility and agency.

It was recommended WSP work with the crisis support provider to collectively determine a course of action to allow and provide adequate support services to all offenders who request services.

§115.21 (f) is not applicable as investigators at WSP conduct administrative and criminal investigations.

§ 115.21 (h) is not applicable as WSP policy and procedure dictates the screening process for the use of qualified staff members as victim advocates and support personnel.

Investigative staff and the WSP PCM were able to articulate the processes for sexual assault investigations, the resources available for advocacy and support for the victim, and the procedure for obtaining a forensic medical examination for the victim.

## 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, notes, "All allegations of sexual violence, staff sexual misconduct, and sexual harassment shall be investigated and the findings documented in writing."

Investigative staff interviewed were able to articulate agency policy and facility practice requiring an investigation for any allegation of sexual abuse or sexual harassment.

The CDCR Investigative Services Unit (ISU), LDI's, and Office of Internal Affairs (OIA) all maintain the legal authority to conduct criminal investigations. ISU/LDI's conduct administrative and criminal investigations. All referrals for investigation are documented within the investigative case file. This was confirmed during interviews with investigative staff and review of all WSP PREA investigative files for this audit period.

OIA are referred staff sexual misconduct cases.

§ 115.22 (c) is not applicable as WSP investigators are responsible for conducting criminal investigations.

The auditor is not required to audit §115.22 (d) & (e) of this standard.

The WSP Warden, WSP PCM, and WSP Investigators were all able to articulate agency policy regarding the referrals for investigation and follow-up processes of an investigation related to sexual abuse or sexual harassment.

The CDCR maintains the investigations policy and practice posted on the agency website.

## **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 audit team was provided the CDCR training curriculum for review. The training curriculum provided for:

- The offender's right to be free from sexual abuse and sexual harassment.
- The dynamics of sexual abuse and sexual harassment in a confinement setting.
- Offender reaction to sexual abuse or sexual harassment.
- How to detect signs of threatened or actual sexual abuse.
- How to avoid inappropriate relationships with offenders.
- How to communicate effectively with Lesbian, Gay, Bi-sexual, Transgender, Intersex and gender non-conforming offenders.
- How to comply with mandatory reporting of sexual abuse to outside authorities.

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 audit team reviewed training records and documentation.

Documentation of training is recorded in the CDCR 844, Training Participation Sign-in-Sheet. The documentation is filed electronically. The audit team viewed documentation and verified staff training participation.

CDCR PREA training is gender specific according to the population at the assigned facility.

WSP current employees who have contact with offenders have received PREA training. In interviews, staff acknowledged receiving PREA training and were able to articulate elements of the training they received.

## 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

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

WSP contract and volunteer staff interviewed were able to articulate elements of the PREA training they had received.

WSP 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. This was confirmed by the audit team.

## 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**

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DOM Chapter 5, Article 44, Section 54040.4, Offender Education, outlines the agency and facility policy for offender PREA education. Information provided to offenders contains the agency's zero tolerance policy for sexual abuse and sexual harassment. The information also explains the offender's right to be free from retaliation from making a sexual abuse or sexual harassment report. Offenders receive PREA education in written form and/or by multi-media presentation (English, Spanish and Hmong) on intake at the receiving facility. Posters with PREA related information was posted throughout the facility in conspicuous areas. This was noted during the facility tour and photographs provided to the audit team prior to the on-site portion of the audit. Posters contained contact information to include telephone numbers and addresses. Offenders are provided PREA brochures, "Sexual Violence Awareness" and PREA booklets, "Sexual Abuse/Assault - Prevention and Interventions". PREA information is also made available in the facility offender orientation handbook.

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 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." There was no peer education noted at WSP involving PREA education.

PREA education materials are made available to offenders in printed form in English and Spanish. The CDCR began providing PREA related information in Hmong in 2018. The Hmong language material was available to offenders at WSP.

The CDCR provides PREA education in other formats to include deaf offenders, visually impaired, and other disabilities.

Participation in PREA education is documented on the CDCR Form 128-B. Upon transfer, offenders are provided PREA related information at the receiving facility.

WSP provided documentation of offenders who had received PREA intake information and PREA education materials.

WSP maintained a number of staff who could speak and interpret Spanish. WSP staff interpreters are required to be certified as interpreters through the CDCR certification process.

Offenders interviewed acknowledged receiving PREA related information or education in some format. The audit team was able to observe the offender intake process at WSP during the facility tour. A

number of offenders interviewed mentioned being somewhat overwhelmed by the amount of PREA information that was provided to them during the intake process.

## 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

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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 investigators are ISU staff or other designated institutional staff trained to conduct investigations of allegations of sexual violence and/or staff sexual misconduct.

The California Penal Code, section 13516(c), also addresses the requirement of specialized training for investigations staff.

The auditor reviewed the specialized training curriculum and determined the training contained the required elements of this standard.

The training included:

- Interviewing techniques
- The proper use of Miranda and Garrity 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.

WSP provided documentation noting investigation staff who have completed the required specialized training. WSP reported having (14) investigative staff.

The audit team interviewed two investigative staff. They were able to articulate elements of the specialized training and were able to articulate various elements and procedures of the investigative process.

During the review of investigative files, ISU staff were available to answer questions and give specific details of the cases reviewed for this audit period.

## 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, are trained to understand all incidents of sexual abuse and sexual harassment will be investigated.

WSP provided the specialized training curriculum for auditor review. Titled, Inmate Medical Services Policy and Procedures (IMSP&P), Volume I, Chapter 16.1, Prison Rape Elimination Act Policy. The curriculum was reviewed and determined to contain all the elements required for this standard.

WSP also provided documentation noting all contract and volunteer staff and the completion date of the PREA training received.

Contract and volunteer staff acknowledged receiving training and were able to articulate a number of elements of the training and how the training is provided.

## 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

*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 facilities utilize 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 conducted by intake staff at WSP. The initial screening is completed within the 72-hour requirement of this standard.

The California Code of Regulations (CR) Title 15, Article 1.6, Subsection 3269, Inmate Housing Assignments, notes requirements for the initial offender housing review.

The initial risk screening takes into account elements (1) through (10) of §115.4(d).

CCR Title 15, Article 1.6, Inmate Housing, Section 3269, Integrated Housing, notes offenders are to be reassessed by the Unit Classification Committee (UCC). The UCC review is to include a review of the offender's initial risk assessment. This review ordinarily occurs within (14) days of intake. This was confirmed with staff interviewed who were part of the review committee.

Staff conducting the risk assessments were interviewed and were able to articulate the assessment process.

The follow-up re-assessment in accordance with §115.41(f) was not occurring at WSP for offenders in the reception and diagnostic units at WSP. The WSP administration was counseled and it was determined by CDCR agency staff, an agency directive would be implemented to provide for a follow-up risk assessment screening in order to comply with §115.41(f). The agency directive required final approval before implementation. A copy of the final agency directive was provided to the auditor. The corrective action measures were discussed with the WSP Warden and administrators.

Corrective action included implementation of the agency directive to conduct the follow-up risk assessment screening in accordance with §115.41(f) within the corrective action period, and (90) consecutive days of continuous documentation (commencing from the time the agency policy is implemented) noting follow-up risk assessments within the (30) day requirement of this standard. The documentation for corrective action would apply to all reception and diagnostic unit offenders at WSP.

The corrective action measures undertaken by WSP are explained in the Summary of Corrective Action section of this report.

## 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

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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 is considered on a case-by-case basis. Documentation from UCC reviews were provided to the audit team, reviewed, and revealed the offender's own views of his safety were considered. This was confirmed in interviews with case managers.

Information from the risk screening at WSP is for determining:

- Housing assignments
- Bed/Bunk assignments
- Work/Detail assignments
- Education assignments
- Programming assignments
- Ensure safety of each offender

Transgender and Intersex offenders at WSP are allowed to shower separately from other offenders. This was confirmed in interviews with transgender offenders.

WSP does not place lesbian, gay, bi-sexual, transgender, or intersex offenders in dedicated facilities, wings, or units based solely on the basis of such identification status.

WSP provided in supporting documentation, 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, considering information from the initial risk screening and UCC reviews. Such reviews and assessments on an on-going basis applied to offenders on “main line”, general population and the Minimum Security Facility (MSF) at WSP.

The WSP PCM and case management staff interviewed were able to articulate the UCC and risk assessment process at WSP.

## 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

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DOM Chapter 5, Article 44, Section 54040.6, Offender Housing, notes, “Offenders at high risk for sexual victimization, as identified on the electronic Initial Housing Review, shall not be placed in segregated housing unless an assessment of all available alternatives has been completed, and a determination has been made that there is no available alternative means of separation from likely abusers.”

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 further requires the offender’s placement in segregation 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, duration of the limitations, and the reasons for such limitations. The policy further provides that such placement cannot exceed a period of 30 days, or until alternative housing can be arranged.

The segregation staff interviewed were able to explain the segregation placement process. Staff explained work opportunities are limited in the segregation unit at WSP due to limited duties for offenders within the unit. Offenders on segregation status are not allowed to leave the unit for work opportunities.

Staff explained offenders are provided a “Captains review” within 24 hours of placement. Staff explained this ordinarily occurs shortly after the offender is placed in segregation. Staff explained offenders will then see “committee” on Thursdays during the week, and explained the Thursday or day the offender is seen by the segregation review committee is determined by when (day) the offender was placed on segregation status. Staff explained the offender may be released from segregation at either the Captains review or by the segregation review committee. The staff interviews were reflective of CDCR policy.

## 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 are allowed to report verbally, in writing, by calling or writing the Office of Internal Affairs, and by third party. Offenders are also allowed to report any allegation of retaliation by staff or other offenders subsequent to a report of sexual abuse or sexual harassment. The same mechanisms for reporting include allegations of neglect by staff which may have contributed to an incident of sexual abuse or sexual harassment.

Offenders interviewed acknowledged they were educated during orientation on ways to make a report of sexual abuse or sexual harassment.

The CDCR maintains an external reporting system through the Office of the Inspector General (OIG). Offender's can write or call the OIG Ombudsman. Offenders are provided the OIG information during orientation, is included in the Orientation Handbook, and is posted throughout the facility in conspicuous areas. The OIG forwards reports of sexual abuse or sexual harassment to the pertinent facility. Offenders are allowed to remain anonymous if so requested.

Offenders who may be detained for civil immigration purposes may contact the OIG for information on how to contact consular officials and/or the Department of Homeland Security. Offender correspondence with the OIG Ombudsman is processed as legal correspondence at WSP.

A number of offenders interviewed acknowledged this information was available to them. The audit team also noticed such postings throughout the facility during the facility tour. Electronic and hard copy OIG postings were made available to the auditor.

Staff at WSP accept reports of sexual abuse and sexual harassment verbally, in writing, anonymously, and from third parties. Staff interviewed were able to articulate this process. Staff interviewed were also able to articulate CDCR and WSP policy require documentation of such reports.

CCR Title 15, Section 3401.5, Employee Sexual Misconduct, requires any employee who observes, or receives information from any source concerning sexual misconduct make such a report to the institution head, unit supervisor, or highest ranking official on duty. Such reports can be made in a confidential manner by the employee. Staff interviewed acknowledged they could make a report of staff sexual misconduct or sexual harassment privately to the facility administration.

During the facility tour, the WSP telephone reporting system was tested by the audit team and was confirmed functioning by a member of the audit team.

Just Detention International was contacted prior to the on-site portion of the audit for any usable information or advisement.

## **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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WSP is not exempt from this standard.

CCR Title 15, Article 8, Appeals, notes, a grievance which in whole or in 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 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 grievance 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 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 any 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."

A number of offenders referenced filing appeals during interviews. There was no apparent significant concern among offenders interviewed regarding the appeal process.

Two (2) WSP appeal staff were interviewed by the auditor. Both staff were able to explain and articulate all elements of the appeal process. WSP reported in the Pre-Audit Questionnaire there were (3) grievances (appeals) filed within the audit period that alleged sexual abuse. (2) Reached a final decision within (90) days and (1) grievance (appeal) where an extension was required to reach a final decision past the (90) time frame.

The appeal staff members provided hard copies of all grievances (appeals) for this audit period to the auditor. Each appeal for this audit period was reviewed with the auditor by the appeals staff.

## **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

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DOM Chapter 5, Article 44, Section 54040.8.2, Victim Advocate and 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 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. It was recommended to have this information added to the offender PREA related materials and postings.

WSP utilizes Alliance Against Family Violence as the community level advocate for emotional support services. WSP currently has an established MOU with this provider.

During the facility tour, the audit team observed postings in all living units and other conspicuous areas of the facility. The postings were provided in English, Spanish, and Hmong. It was noted the postings advised correspondence with the victim advocate service would be treated as "privileged communication".

A number of offenders interviewed related they were aware of the victim advocate service due to the posters throughout the facility and living areas.

WSP provided crisis provider posters in electronic and hard copy format prior to the on-site portion of the audit. Photographs of the postings at WSP were also provided to the audit team prior to the on-site portion of the audit.

A representative from Alliance Against Family Violence was interviewed by an audit team member. The representative was able to articulate services provided to offenders at WSP.

## 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

*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 54040.7.2, Notification via Third Party reporting Misconduct Against an Employee, Contractor, or Volunteer, inclusive with, Section 54040.7.3., Notification via Third Party Reporting of Sexual Violence or Sexual Harassment Against an Offender, both outline the process for responding to third party reports of sexual abuse and sexual harassment.

Policy outlines the process as 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 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 website:

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

A number of offenders interviewed related they were unaware of the ability to make a report of sexual abuse or sexual harassment to a third party entity. In a number of such cases, the requirements and elements of this standard were explained to the offenders by the audit team members during interviews.

## 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

- 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, 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."

DOM Chapter 5, Article 44, Section 54040.8, Response, notes, "Incident specific information shall be treated as confidential, and disclosure made to employee 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.”

Medical and behavioral health staff were able to articulate the “duty to report” to offenders during interviews.

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

This was confirmed in interviews with investigators and from a review of all PREA investigation reports for this audit period.

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 appropriate disposition.”

Investigators were able to confirm this process during interviews.

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.

Appeals, investigation, and administrative staff interviewed were able to confirm this process. ISU will make immediate contact with the offender and other relevant staff to determine what course of action should be taken to protect the offender.

## 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

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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..."

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

All staff interviewed indicated they would notify a supervisor immediately and take whatever measures necessary to protect the offender.

WSP Security Supervisors interviewed confirmed they maintain the authority to take any measure necessary to protect an offender from sexual abuse or harm of any kind.

## 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 abused 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) requirement of this standard. The policy requires the notification documented on the CDCR SSVIA-IA form.

The same policy 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."

WSP reported (2) incidents of reports of an offender abused at another facility. WSP also reported (4) incidents of sexual abuse received from other facilities. WSP reported these incidents to have occurred within this audit period.

The auditor reviewed all cases while in the presence of an ISU staff member. Each case was reviewed and questions were presented to the ISU staff member. The ISU staff member was able to articulate elements of each case and answer questions from the auditor.

The auditor noted the majority of notifications were made in email format however; the WSP Warden was made aware of each case. WSP was advised for future incidents, Department of Justice Guidance for PREA Standard §115.63(a), dated May 9, 2018 should be followed noting:

*"The notification must, at a minimum, be: (1) Made at the direction of the facility head, and (2) Appear to a third party to have originated with the facility head. For example, the facility head could instruct his or her administrative assistant to send the notification on the facility head's letterhead and with the facility head's signature, or to send the notification from the facility head's email address. By contrast, the facility's PREA Compliance Manager could not send the notification from his or her email address and merely copy the facility head."*

## 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, and Response, notes, "If staff who receives the report is non-custody, he/she shall immediately notify his/her supervisor and the Watch Commander."

The CDCR training curriculum (classroom and on-the-job training) was reviewed by the auditor. The training included the required elements of this standard.

A number of custody, non-custody, and first responding staff were interviewed. Staff were able to articulate policy requirements, elements of the training, and steps they would take upon receiving a report of sexual abuse or sexual harassment.

## 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

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

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

The audit team was provided a copy of the supplement for review and as supporting documentation.

## 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 Peace Officers Association which was effective 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.

WSP provided a copy of the agreement for the auditor for review.

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."

The CDCR agency representative and WSP Warden 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 CDCR 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 to do so. Monitoring will conclude if the report of sexual abuse is determined to be unfounded or false. The monitoring is inclusive for staff who have reported sexual abuse of an offender and offenders who have alleged to have suffered sexual abuse. Offenders are monitored for disciplinary violations, program changes and housing changes. Staff are monitored for negative performance reviews and post reassignments. The PCM is required by 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(g), Staff Sexual Misconduct.

The WSP Warden articulated, immediate protections would be provided to any staff or offender who alleges retaliation as a result of a report of sexual abuse or sexual harassment. In regard to offenders, consideration would be given to housing changes, removal of the alleged abuser, transfer, and providing emotional support services. Concerning staff, removal of the alleged abuser and post reassignment would be considered.

ISU conducts monitoring for retaliation at WSP. The ISU staff members interviewed explained the monitoring process and policy requirements. ISU staff explained for offenders, they would monitor disciplinary violations, housing and program changes. Offenders are contacted by the staff monitor in (15) day increments for a period of (90) days. Staff explained they would extend the monitoring beyond 90 days if so warranted.

ISU staff explained staff would be monitored for negative performance reviews and post re-assignments. Monitoring for staff is documented on CDCR Form 2305.

WSP reported no incidents of staff or offender retaliation for this audit period.

Monitoring is documented on CDCR Form 2034, Protection Against Retaliation (PAR). The auditor reviewed all PAR forms during the review of all PREA cases.

## 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.

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

Segregation staff interviewed explained the administrative segregation placement process and explained the only time an offender would be placed in administrative segregation involuntarily for a PREA related matter would be for protection purposes and the placement would be temporary and until an ISU member could speak with the offender.

## 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 assist the Assistant Secretary, OIA."

§115.71(b): WSP investigators receive specialized training in sexual abuse investigations as required by this standard. The specialized training curriculum was provided to the auditor for review. Investigators interviewed acknowledged they received, understood, and were able to articulate elements of the training. WSP provided documentation noting investigators received the specialized training.

§115.71(c): DOM Chapter 5, Article 44, Section 54040.8.1, Crime Scene Preservation; Evidence, outlines the process of evidence collection for investigators. The investigator training curriculum contains elements pertinent to crime scene preservation, direct and circumstantial evidence, electronic data, and interviewing techniques.

§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) Investigators Field Guide (May 2008) Version 2, Section; Criminal to Administrative Procedures, outlines the process for consulting with prosecutor in regard to compelled interviews.

The WSP investigations supervisor explained WSP maintains an MOU with the local prosecutor's office, which allows for cases to be referred for prosecution and for consultation on administrative and criminal investigations. WSP provided a copy of the MOU to the audit team for review.

§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 were able to articulate the elements of this policy during interviews.

DOM Chapter 1, Section 14030.5, 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 include any person to take a polygraph examination." Investigators confirmed no person is required to take a polygraph examination.

§115.71(f): DOM Chapter 5, Article 44, Section 54040.12, Investigation, notes, "The investigator will include an effort to determine whether 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 were able to articulate the elements of this policy during interviews.

§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 all investigation cases for this audit period noting all required elements of this standard are included in the investigative reports.

§115.71(h): DOM Chapter 3, Article 14, Section 31140.2, Criminal Investigation, 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 were able to articulate the process for referral of case 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).

A CDCR memorandum was provided as supporting 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, notes, "The departure of the alleged suspect or victim from employment or control of the CDCR shall not provide a basis for terminating an investigation."

Investigators explained an investigation would continue and be brought to conclusion regardless of the status of the alleged suspect or victim.

§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 therefore this provision is not applicable.

The WSP Warden, PCM, and ISU Supervisor were able to explain the administrative and criminal 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

*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 54040.12, Investigations, 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 preponderance of evidence is to be used when determining whether allegations of sexual abuse or sexual harassment are sustained." This was confirmed during investigative staff interviews.

Investigators were able to articulate the "preponderance" standard for evidence 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 offenders allegation that a staff member has committed sexual misconduct against an offender, the alleged victim shall be informed as to whether the allegation has been substantiated, unsubstantiated, or unfounded."

The 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 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 victim has been released from custody or the disposition of the investigation was determined unfounded.

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

During the investigative case review, the auditor viewed notifications in 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

*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.*

CCR Division 3, Subchapter 5, Article 2, Section 3405.5, Staff Sexual Misconduct, inclusive with 3405.6, Staff Sexual Harassment, 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 violation 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 WSP Warden and Institution Personnel Officer (IPO) were able to explain the disciplinary process for staff to include contractors and volunteers during interviews.

WSP reported no notifications to relevant licensing bodies because of PREA related investigations.

## 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 inmate shall be prohibited from contact with inmates and shall be subject to administrative and/or criminal investigation. Referral shall be made to the District Attorney unless the activity was clearly not criminal. Reportable information shall be sent to relevant licensing bodies."

WSP reported no incidents of contractors or volunteers reported to law enforcement or relevant licensing bodies for engaging in sexual misconduct with offenders.

The Warden and CDCR agency representative confirmed, any employee, contractor or volunteer who engaged in sexual misconduct with an offender would be prohibited from contact with offenders, investigated, and if substantiated would be referred for prosecution and reported to the relevant licensing entity.

## 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 Report, 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.

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

The 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 sex acts. Inmates are excluded in laws, which remove legal restraints from acts between consenting adults..."

Staff interviewed were able to articulate the disciplinary process to include what actions would justify issuing an offender a disciplinary violation and those circumstance that exclude the issuance of a disciplinary violation.

## **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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*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, 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 provided by the CDCR Central Office PREA Staff.

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, outline the policy, protocol and guidelines which provides unimpeded access to health care treatment. Treatment services are provided according to practitioners professional judgement. Health care services are provided at WSP 24 hours a day.

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 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 practitioners professional judgement. Health care services are provided at WSP 24 hours a day.

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.

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.

Medical and mental health at WSP care appears to be consistent with community level care.

§115.83(d), (e) are not applicable.

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 a sexual abuse incident.

WSP 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 WSP 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

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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; and
- Incident Commander or Investigative Services Unit Supervisor.

The incident review team considers and or assesses the following:

- 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 was motivated by race, ethnicity, gender identity; lesbian, gay bisexual, transgender, or intersex identification status, or perceived status, gang affiliation, or was motivated or otherwise caused by other group dynamics.
- Consideration and examination of the area of the facility where the incident occurred.
- An assessment of staffing levels.
- Assessment of monitoring technology and whether it should be deployed or augmented to supplement staff supervision.
- 

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 number of members of the IPRC were interviewed and were able to explain the IPRC process at WSP.

## **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

*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 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) and 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 an 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.

WSP provided supporting documentation which included CDCR aggregated PREA data for calendar year 2017. The CDCR PREA Coordinator was able to articulate elements of the SSV and data reporting processes. Annual reports are available on the agency website.

## 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 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.

WSP was audited for this report during the third year of the current audit cycle.

CDCR had at least two-thirds of each facility type operated by the agency, or by a private organization on behalf of the agency, audited during the first two years of the current audit cycle.

During the audit of WSP, 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 (1) WSP offender. The auditor was not able to conduct an interview with this offender due to receiving the correspondence after the on-site portion of the audit.

## 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.

## 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 \_\_\_\_\_

July 10, 2019 \_\_\_\_\_

**Auditor Signature**

**Date**

<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.