

PREA AUDIT: AUDITOR'S SUMMARY REPORT

Adult Prisons and Jails

| [Following information to be populated from pre-audit questionnaire] | |
|---|---------------------------------------|
| Auditor Information: | |
| Auditor Name: Vevia Sturm | |
| Address: 2728 Plaza Drive, Jefferson City, MO 65109 | |
| E-Mail: Vevia.Sturm@doc.mo.gov | |
| Telephone number: 573-522-3335 | |
| Facility Information: | |
| Facility Name: California State Prison – Los Angeles County | |
| Facility physical address: 44750 60 th Street West, Lancaster, CA 93536-7620 | |
| Facility mailing address: (if different from above) | |
| Facility telephone number: 661-729-2000 | |
| Date of facility visit: December 7 th – 8 th , 2016 | |
| The facility is: <input type="checkbox"/> Military <input type="checkbox"/> County <input type="checkbox"/> Federal <input type="checkbox"/> Private for profit <input type="checkbox"/> Municipal XX State <input type="checkbox"/> Private not for profit | |
| Facility Type: <input checked="" type="checkbox"/> Prison <input type="checkbox"/> Jail | |
| Name of facility's Chief Executive Officer: Debbie Asuncion | |
| Number of staff assigned to the facility in the last 12 months: 1473 | |
| Designed facility capacity: 2316 | |
| Facility security levels/inmates custody levels: Levels I, III and IV | |
| Age range of population: Adult 18+ | |
| Name of PREA Compliance Manger: Michael Stratman | Title: Health Care Captain |
| E-Mail Address: Michael.stratman@cdcr.ca.gov | Phone Number: 661-729-2000 |
| Agency Information | |
| Name of agency: California Department of Corrections and Rehabilitation | |
| Governing authority or parent agency: (if applicable) Sate of California | |
| Physical address: 1515 "S" Street, Sacramento, CA 95811 | |
| Mailing address: (if different from above) P.O. Box 942883, Sacramento, CA 94283 | |
| Telephone Number: 916-985-2561 | |
| Agency Chief Executive Officer | |
| Name: Scott Kernan | Title: CDCR Secretary |
| E-Mail Address: scott.kernan@cdcr.ca.gov | Telephone Number: 916-445-7688 |
| Statewide PREA Coordinator | |
| Name: Shannon Stark | Title: Captain |
| E-Mail Address: Shannon.stark@cdcr.ca.gov | Telephone Number: 916-324-6688 |

AUDIT FINDINGS

NARRATIVE:

The onsite PREA audit of California State Prison – Los Angeles County (LAC) was conducted on December 6th – 8th, 2016. The audit team was from the Missouri Department of Corrections and consisted of Vevia Sturm, DOJ Certified Lead Auditor and Krista Helton, DOJ Certified PREA Auditor and two support staff, Adam Albach and Bill Stange.

The Notice of Audit was posted throughout the facility on October 24, 2016, 6 weeks prior to the scheduled onsite audit. The team received 3 offender letters prior to the audit and all three were subsequently interviewed during the onsite audit. The audit team received the Pre Audit Questionnaire (PAQ) and supporting documentation on November 11th, which provided the team ample time to conduct a thorough documentation review. The documentation review was completed by the team in an organized and comprehensive manner. Correspondence between the lead auditor and California's PREA Coordinator occurred throughout the pre-audit phase. A detailed agenda was provided to the PREA Coordinator on October 31 along with an interview list.

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

The team arrived at LAC at 9:00 AM on December 6th where we met with the facility's executive staff for introductions and to answer questions and outline the agenda for next 3 days. This meeting was followed by a tour of the facility. Due to the size of the facility, 2 auditors toured yards A & B which included the central services, programming areas, receiving and segregation unit while the other two auditors toured yards C & D which included central services, receiving, Correctional Treatment Center, minimum support facility and programming areas. During the tour the auditors paid special attention to the manner in which offenders were supervised, were on alert for any blind spots, identified multiple cross gender viewing issues that are outlined in standard 115.15, as well as the absence of cross gender announcements. During the tour the auditors spoke briefly with both staff and offenders.

Following the tour, the auditors were provided with offender rosters by housing unit, staff rosters which included shift and title; and, lists of specialized staff and offenders. Random offenders from each housing unit and staff from all shift were selected to interview. The team began interviews following the tour on December 6th and completed interviews on morning of December 8th. The audit team interviewed a total of 39 staff which included 15 random staff, 24 specialized staff and volunteers. In addition the team interviewed a total of 21 offenders which included 13 random offenders and 8 specialized offenders. During this time the team also reviewed randomly selected personnel files, investigative files and mental health records.

The exit meeting with held on Thursday, December 8th at 12:30 PM and included the facility's Warden and her administration as well as the PREA Coordinator and her staff.

DESCRIPTION OF FACILITY CHARACTERISTICS

LAC was opened in 1993 and is located in Lancaster, CA, which is approximately 70 miles north of downtown Los Angeles.

The facility houses both minimum and maximum security male offenders defined as level I, III and IV who have been sentenced to state prison by the courts. The institution consists of 4 main facilities: four 270-design housing units; a minimum support facility, a standalone Administrative Segregation Unit and a Correctional Treatment Center. The PAQ indicates the facility has 22 multiple occupancy cell housing units, 2 housing units with open bays and 200 segregation cells. According to the LAC's staffing plan analysis, the facility is authorized for 4608 beds however, on the first day of the audit, the facility housed 3311 offenders. Video monitoring capabilities are very minimal at LAC, with video monitoring available only in the visiting rooms, the administrative segregation yard and laundry.

The staffing analysis indicates the facility is authorized for 814.7 custody positions, 121 mental health positions, 246 health care positions, 35 dental positions and 294.4 non-custody/support positions for an overall staffing of 1,511.1.

The primary mission of LAC is to support the criminal justice system by operating the prison in a manner that produces a safe and secure environment for the public, staff and offenders. The facility provides for the basic needs of the offenders while making programs and services available to promote self-responsibility and development, with the goal of successful reentry into the community as productive citizens. The facility offers academic courses, career and technical education and substance abuse treatment.

SUMMARY OF AUDITO FINDINGS:

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

The following nine standards required corrective action:

- 115.15 Limits to Cross Gender Viewing and Searches
- 115.21 Evidence protocol and forensic medical exams
- 115.35 Medical and Mental Health Training
- 115.41 Screening for risk of victimization and abusiveness
- 115.42 Use of screening information
- 115.51 Inmate reporting
- 115.72 Evidentiary standard for administrative investigations
- 115.81 Medical and mental health screening
- 115.87 Data collection

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

Number of standards exceeded:

Number of standards met: 42

Number of standards not met: 0

Number of standards that do not apply: 1

| 115.11 | Zero tolerance of sexual abuse and sexual harassment; PREA Coordinator |
|--|--|
| <input type="checkbox"/> Exceeds Standard (substantially exceeds requirement of standard) XX Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period) <input type="checkbox"/> Does Not Meet Standard (requires corrective action) <input type="checkbox"/> Does Not Apply Auditor comments, including corrective actions needed if does not meet standard | |
| <p>Department Operations Manual (DOM), Chapter 5, Article 44, section 54040.1 establishes the agency's zero tolerance for sexual violence, staff sexual misconduct and sexual harassment. This policy also dictates that the agency will provide guidelines for the prevention, detection, response, investigation and tracking of sexual abuse and sexual harassment.</p> <p>The agency has a designated employee who indicates that she has sufficient time and authority to oversee the implementation and compliance of PREA standards in facilities. The agency's PREA Coordinator reports to the Associate Director of Female Institutions. The agency has designated PREA compliance managers at each of its 35 institutions who are responsible to ensure compliance at their respective facility. LAC's PREA Compliance Manager indicated that he had sufficient time and authority to oversee the facility's efforts towards compliance. The PREA compliance manager reports to the Assistant Warden of Health Care.</p> | |

| 115.12 | Contracting with other entities for the confinement of inmates |
|--|--|
| <input type="checkbox"/> Exceeds Standard (substantially exceeds requirement of standard) XX Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period) <input type="checkbox"/> Does Not Meet Standard (requires corrective action) <input type="checkbox"/> Does Not Apply Auditor comments, including corrective actions needed if does not meet standard | |
| <p>CDCR has 9 contracted prisons: Tallahatchie County Correctional Facility, La Palma Correctional Center; Golden State Modified Community Correctional Facility; Desert View Modified Community Correctional Facility; Central Valley Modified Community Correctional Facility; McFarland Female Community Reentry Facility; Shafter Modified Community Correctional Facility; Delano Community Correctional Facility and Taft Modified Community Correctional Facility. Contracts provided to the auditor shows, all include the facility's obligation to adopt and comply with PREA standards. The Contracted Bed Unit provides oversight and contract monitoring to all the above contracts. All contracted facilities have been audited by a DOJ certified PREA auditor. Of the 9 contracted facilities, six are in full compliance and the final PREA audit report has been posted on the internet. The other three facilities are in corrective action.</p> | |

| 115.13 | Supervision and monitoring |
|---|----------------------------|
| <input type="checkbox"/> Exceeds Standard (substantially exceeds requirement of standard) XX Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period) <input type="checkbox"/> Does Not Meet Standard (requires corrective action) <input type="checkbox"/> Does Not Apply Auditor comments, including corrective actions needed if does not meet standard | |
| <p>LAC's staffing pattern considers all components required by this standard. When determining how staff will be deployed the facility considers; physical plant structure, mission of the facility, composition of inmate population, along with substantiated and unsubstantiated incidents of sexual abuse. The facility has not had any findings of inadequacy.</p> <p>LAC has not deviated from their standardized staffing pattern. CDCR has a computer based program called Telestaff. This program is designed to show the Watch Commander any discrepancies and variations to the staffing pattern. For example, if an officer calls in sick or is on vacation that information is entered into the Telestaff system. Watch Commanders can then run a report that shows where the vacancies are on a particular shift, which allows the Watch Commander to quickly locate where necessary adjustments should be made for proper supervision.</p> <p>DOM Chapter 5, Article 44, section 5040.17.1, states the staffing pattern will be reviewed whenever necessary but no less frequently than once a year, in consultation with the Department PREA Coordinator. The staffing plan analysis submitted by LAC considers all components of subsection (a) of this standard. The facility's deployment of electronic monitoring, and resources used to monitor staffing level are also reviewed in this analysis.</p> <p>LAC's intermediate and higher level security staff conduct and document unannounced rounds, as outlined in section 54040.4 of the DOM. The security personnel who conduct the rounds do not alert other staff to when these rounds are occurring. All unannounced rounds are documented in the unit log book. This practice was verified on site by reviewing unit log books. Also, staff interviews supported that security supervisors make frequent unscheduled visits.</p> | |

| 115.14 | Youthful inmates |
|---|------------------|
| <input type="checkbox"/> Exceeds Standard (substantially exceeds requirement of standard) <input type="checkbox"/> Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period) <input type="checkbox"/> Does Not Meet Standard (requires corrective action) XX Does Not Apply Auditor comments, including corrective actions needed if does not meet standard | |

CDCR does not house youthful offenders.

115.15 Limits to cross-gender viewing and searches

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

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

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

DOM Chapter 5, Article 44, Section 54040.4 Preventative Measures, states that each institution shall enable offenders to shower, perform bodily functions and change clothing without non-medical staff of the opposite gender viewing their breast, buttocks, or genitalia except in exigent circumstances. Policy also states that staff of the opposite gender shall announce their presence when entering the housing unit. However, interviews with staff and offenders indicated that the opposite gender announcement is not conducted consistently throughout all housing units.

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

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

Below is an overview of observations made during the facility tour. Please keep in mind the auditors only toured one of each type of housing unit. The corrective action regarding cross gender viewing

pertains to all areas of the facility; some areas which require privacy barriers may not be noted in the narrative below.

Intake

- **R&R-** The holding cells for offenders waiting processing allowed for auditors to directly see the entire toilet.

A Yard

- **Primary Care Clinic-** Bathroom door window allowed for direct view of the toilet.
- **Infirmary-** Bathroom window needs privacy barrier.
- **Central Services-** All bathrooms in central services (program area) allowed for direct viewing of the toilet.
Education- Restroom windows allowed for offenders to be viewed while toileting. The mirror tape was not dark enough to obstruct view.
- **Housing Units-** All housing unit showers need a flap/cover over the restraint port in the showers.
- **Vocational Area-** ADA bathroom remodels do not provide privacy for toileting. Current remodeling allows for toilet to be viewed upon entrance.

B Yard

- **Primary Care Clinic-** Bathroom door window allowed for direct view of the toilet.
- **Infirmary-** Bathroom window needs privacy barrier.
- **Central Services-** All bathrooms in central services (program area) allowed for direct viewing of the toilet.
Education- Restroom windows allowed for offenders to be viewed while toileting. The mirror tape was not dark enough to obstruct view.
- **Housing Units-** All housing unit showers need a flap/cover over the restraint port in the showers.

C Yard

- **Education-** Restroom windows allowed for offenders to be viewed while toileting. The mirror tape was not dark enough.
- **Medical/RC Intake-** Window on door is low enough to view the offenders private area while toileting.
- **Canteen-** A large window on the door allows for cross gender viewing.
- **Gymnasium Bathroom-** The bathroom in the gym did not have appropriate coverage. The bathroom has two entrance ways that allows for direct viewing of toilets from both entrances.
- **Housing Units-** All housing units had mesh doors which allows for view of offender sitting on the toilet.

Industries

- **College Prep Class Room-** The bathroom did not have a privacy barrier, which allowed the auditors to see the entire toilet.

D Yard

- **Education-** Restroom windows allowed for offenders to be viewed while toileting. The mirror tape was not dark enough.
- **Medical/RC Intake-** Window on door is low enough to view the offenders private area while toileting.
- **Gymnasium Bathroom-** The bathroom in the gym did not have appropriate coverage. The bathroom has two entrance ways that allows for direct viewing of toilets from both entrances.
- **Housing Units-** All housing units had mesh doors which allows for view of offender sitting on the toilet.

Minimum Unit

- **Central Service Area (Education. Library, etc.)-** All bathroom doors have a window that is low enough to view the offender utilizing the toilet.
- **Housing Units-** Showers allow for cross gender viewing. The existing wall is too short to provide appropriate coverage of offender.
- Additionally, the existing partition in the toilet area did not provide coverage on the end toilet. Also, the toilets could be viewed through the walk way into the shower

Correction Action Plan:

- Install privacy barriers to allow offenders to shower, perform bodily functions, and change clothing without non-medical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances.
- Provide pictures of the barriers installed to the areas indicated in the narrative within 180 days.
- LAC shall implement into practice the opposite gender announcement outlined in the DOM 54040.4 Education and Prevention.
- LAC shall provide documentary evidence that education to custody staff has been conducted on how the announcement should be made within 180 days.
 - **Recommendation:** LAC should develop a practice that requires staff to log when the cross gender announcement is made. This will allow supervisors the opportunity to oversee assurance of this standard.

Corrective Action Period:

During the Corrective Action Period, the facility addressed each cross gender viewing issue noted during the tour and provided pictures to the auditors to demonstrate compliance. Noted below are the actions taken to prevent cross gender viewing.

Intake

- **R&R-** LAC provided a moveable privacy barrier to prevent incidental cross gender viewing.

A Yard

- **Primary Care Clinic-** Film added to the bottom portion of the door window.
- **Infirmary-** Film added to the lower portion of the viewing window.

- **Central Services-** Film added to lower portion of the window in the door.
- **Education-** Applied darker film to the lower portion of the viewing windows to prevent cross gender viewing.
- **Housing Units-** The Warden provided a memo to staff and offenders allowing offenders in HU A to cover the cuff port with a towel when showering when opposite gender staff are in the housing unit.
- **Vocational Area-** Moveable barriers provided to prevent incidental viewing.

B Yard

- **Primary Care Clinic-** Film added to the lower portion of the door window.
- **Infirmary-** Film added to the lower portion of the viewing window.
- **Central Services-** Film added to lower portion of the door window.
- **Education-** Applied darker film to the lower portion of the viewing windows to prevent cross gender viewing.
- **Housing Units -** The Warden provided a memo to staff and offenders allowing offenders in HU B to cover the cuff port with a towel when showering when opposite gender staff are in the housing unit.

C Yard

- **Education-** Applied darker film to the lower portion of the viewing windows to prevent cross gender viewing.
- **Medical/RC Intake-** Film added to lower portion of the door window.
- **Canteen-** Film added to lower portion of the door window.
- **Gymnasium Bathroom-** Movable barrier provided for the toilet area to prevent cross gender viewing.
- **Housing Units-** The Warden provided a memo to staff and offenders allowing offenders housed in cells with perforated door to put one towel up when toileting and changing clothing. Allowed only when staff of the opposite gender are in the housing unit.

D Yard

- **Education-** Applied darker film to the lower portion of the viewing windows to prevent cross gender viewing.
- **Medical/RC Intake-** Applied film to prevent cross gender viewing.
- **Gymnasium Bathroom-** Moveable privacy barriers provided to prevent incidental cross gender viewing.
- **Housing Units -** The Warden provided a memo to staff and offenders allowing offenders housed in cells with perforated door to put one towel up when toileting and changing clothing. Allowed only when staff of the opposite gender are in the housing unit.

Minimum Unit

- **Central Service Area** (Education. Library, etc.)-Film added to the bottom portion of the door window.
- **Housing Units-** Metal privacy barriers were added to the top of the shower walls to prevent cross gender viewing.
 - The facility now provides a moveable partition for the toilet area in the minimum unit.

Opposite Gender Announcement:

The facility provided sign in sheets to demonstrate all staff received “Opposite Sex Announcement” training. In addition, the Warden provided a memo indicating that staff at LAC had received the training. Staff at LAC have been instructed that when the opposite biological sex enters a housing unit they will announce, “Staff on the Floor.” The announcement must be made at the beginning of each shift if staff of the opposite gender are assigned to the housing unit, or when a staff of the opposite gender enters the housing unit.

To ensure offenders are educated regarding the meaning of “Staff on the Floor”, the PREA Orientation Handbook was updated to include an explanation of “Staff on the Floor”.

In addition, CDCR has created the 128 B Receipt of Inmate PREA Education form that is to be utilized at intake to ensure offenders receive the necessary PREA education. The 128 B includes “Opposite Gender Announcement was explained, “Staff on the Floor” means staff of the opposite gender are in the Housing Unit.”

| 115.16 | Inmates with disabilities and inmates who are limited English proficient |
|---|--|
| <p><input type="checkbox"/> Exceeds Standard (substantially exceeds requirement of standard)</p> <p><input checked="" type="checkbox"/> Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)</p> <p><input type="checkbox"/> Does Not Meet Standard (requires corrective action)</p> <p><input type="checkbox"/> Does Not Apply</p> <p>Auditor comments, including corrective actions needed if does not meet standard</p> | |
| <p>The facility has taken the appropriate steps necessary to ensure offenders with disabilities have equal opportunity to participate in and benefit from all aspects of the agency’s efforts. During the site tour the auditors noted that PREA postings are sufficiently posted in both English and Spanish. The agency has a standard agreement with Interpreters Unlimited, Inc. to provide interpreter services to non-English speaking and otherwise developmentally disabled offenders. Agency policy, Title 15 requires assistance to offenders whose, “Test of Basic Education (TABE) score is 4.0 or lower.” Employees are required to query the inmate to determine whether or not assistance is needed to achieve effective communication. DOM Chapter 5, Article 44, Section 54040.12 shows, 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.</p> | |

| 115.17 | Hiring and promotion decisions |
|--|--------------------------------|
| <p><input type="checkbox"/> Exceeds Standard (substantially exceeds requirement of standard)</p> | |

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

Does Not Meet Standard (requires corrective action)

Does Not Apply

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

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

Part of the agencies pre-employment process is for the applicant to complete form CDCR 1951. This form directly asks the applicant about past encounters of sexual abuse and sexual harassment. Policy also shows the agency will provide information on substantiated allegations of sexual abuse and harassment involving a former employee upon request.

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

Through interviews and record review it was determined that all POST certified staff are subjected to an in-depth background check which includes requiring them to provide the name of all previous employers, however, it could not be verified whether all prior institutional employers were contacted to determine if the candidate had any substantiated allegations of sexual abuse or if the candidate resigned during a pending investigation of an allegation of sexual abuse.

Recommendation: The agency should develop a process to document their efforts to contact past institutional employers.

| 115.18 | Upgrades to facilities and technologies |
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| <input type="checkbox"/> Exceeds Standard (substantially exceeds requirement of standard) XX Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period) <input type="checkbox"/> Does Not Meet Standard (requires corrective action) <input type="checkbox"/> Does Not Apply Auditor comments, including corrective actions needed if does not meet standard | |
| <p>The PREA Compliance Manager and the Warden indicated that when designing upgrades to existing facilities or electrical surveillance systems, including cameras, CDCR has implemented within its Design Criteria Guidelines the following language “When installing or updating a video monitoring system, electronic surveillance system, or other monitoring technology, consider and address how such technology may enhance the agency’s ability to protect inmates from sexual abuse.” There have also been communications in regard to an agency wide update and implementation of camera use/installation and how the use/installation will enhance the agency’s efforts in protecting offenders from sexual abuse/harassment.</p> <p>During the tour it was noted that the facility was in the process of making renovations to bathrooms in the vocational/education areas to meet ADA requirements. The renovations had the toilet positioned directly in front of the opening with no privacy barriers noted in the design plan. This deficiency will be noted in standard 115.15. Since the onsite audit the team has learned CDCR is working with Buildings and Contraction to had PREA language to the Design Criteria Guide.</p> <p>Recommendation: Ensure all future renovations consider the facility to protect offender from sexual abuse which would include cross gender viewing which could contribute to voyeurism by staff.</p> | |

| 115.21 | Evidence protocol and forensic medical examinations |
|---|---|
| <input type="checkbox"/> Exceeds Standard (substantially exceeds requirement of standard) XX Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period) <input type="checkbox"/> Does Not Meet Standard (requires corrective action) <input type="checkbox"/> Does Not Apply Auditor comments, including corrective actions needed if does not meet standard | |
| <p>LAC’s Investigations and Security Unit (ISU) conducts both criminal and administrative PREA investigations. The ISU is comprised of custody staff ranging from correctional officers to captains who are trained as investigators and are referred to as Locally Designated Investigators (LDI). A LDI investigates offender of offender allegations. Allegations involving staff are referred to Internal</p> | |

Affairs which is part of the ISU. Internal Affairs investigators are supervisors at the level of a Sergeants or a Lieutenant. The ISU reports directly to the Warden and the Chief Deputy Warden.

A review of randomly selected investigative files demonstrated that PREA investigations at LAC follow a uniform protocol which is outlined in the agency's PREA Specialized Training for Locally Designated Investigators. All investigators that conduct PREA investigations are required by California Penal code 13516 to receive specialized training. At the time of the audit 2 investigators had received PREA specialized investigator training to conduct PREA investigations. LAC provided documentation to demonstrated that both the investigators at had receive the required training.

LAC offers all offenders who experience sexual abuse that is reported to have occurred within the last 72 hours access to forensic medical examinations conducted by a certified sexual abuse nurse examiner as required by DOM Chapter 5, Article 44, Section 54040.9. If a forensic exam is medically indicated, a community advocate and a Sexual Assault Nurse Examiner (SANE) respond to the facility to conduct the exam. Forensic exams and follow up services are offered at no cost to the victim as outlined in the Health Care Services policy, Chapter 10, 1.10 Copayment Program Policy which states "Medically necessary treatment that relates to the initial conduction including the evaluation, assessment and follow-up services shall be provided by licensed health care staff without regard to the patient's ability to pay...Treatment services relating to sexual abuse or assault." Within the last 12 months, LAC has had 2 investigations that required a forensic exam in which both exams were performed by a SANE.

This standard requires the agency to attempt to make available a victim advocate from a rape crisis center. DOM Chapter 5, Article 44, Section 54040.8.2 Victim Advocate and Victim Support Person shows victims of rape, unlawful sexual intercourse with person under 18, rape of spouse, sodomy, oral copulation and forcible acts of sexual acts of penetration "have the right under PC [Penal Code] 264.2 and PC 679.04 to a Victim Advocate and Victim Support Person for both medical examination and investigatory interview." Policy, interviews with staff as well as randomly selected investigative reports clearly show alleged victims of Non-Consensual Sex Acts or staff sexual misconduct that includes penetration would be provided an advocate.

Investigation reports of allegations that involved abusive sexual contact showed the victims did not "qualify" for advocacy. Staff interviewed reported that the Penal Code and DOM only allowed advocacy for certain types of incidents. While the Penal Code and DOM clearly outlines the types of offenses that require an advocate it does not prevent victims of non penetration sexual abuse from being provided an advocate. However, the PC and DOM do not require staff to provide advocacy to victims if allegation does not fall into the categories outlined by the PC 264.2. The Specialized PREA Training for Locally Designated Investigators, page 12, shows, "In incidents where an offender has alleged sexual violence or staff sexual misconduct that meet the listed PC [penal code]Sections above, the watch commander or designee shall immediately notify the local Rape Crisis Center. In most cases, the victim advocate will be from the local Rape Crisis Center." This appears to indicate that only the crimes listed in the penal code will be afforded an advocate. Staff who

were interviewed conveyed that it was their understanding that an advocate could only be offender if the allegation was listed in the PC.

Correction Action:

- DOM to be revised to clearly show all victims of sexual abuse, as defined by CFR 115.6, should be offered advocates.
- Staff should receive additional training regarding when advocacy must be offered.
- Facility should provide the auditor with the revised DOM or pending DOM revision, a directive to all facilities signed by the director outlining when advocacy will be offered.
- If the facility conducts a sexual abuse investigation, as defined by CFR 115.6 *“(4) Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation”*, within the next 180 days, the facility will provide the auditor with documentation demonstrating that the victims were offered advocacy.

Corrective Action Period:

CDCR revised the DOM to show all victims of sexual abuse, as defined by CFR 115.6, will be offered advocates. The revised DOM language shows, “Victims of alleged sexual violence or staff sexual misconduct have the right under PC 264.2, PC 679.04 and/or 28 CFR, Standard 115.21 to a Victim Advocate and Victim Support Person for both forensic medical examinations (where evidentiary or medically appropriate) and for the investigatory interview.” At CDCR, the term “sexual violence” encompasses both nonconsensual sexual acts and abusive sexual contact.

To ensure offenders know they have the right to a victim advocate, the PREA Orientation Handbook was updated. The updated information states, “If you are the victim of sexual violence or staff sexual misconduct while in this institution, you are eligible to have a Victim Advocate and a Victim Support Person with you during the medical examination and investigatory interviews.”

Investigators at LAC received training to ensure they were aware that all alleged victims of “sexual violence” have the right to an advocate. To demonstrate staff received training, LAC provided the training sign in log.

To demonstrate practice, LAC provided an offender-on-offender abusive sexual contact investigation that was conducted during the corrective action period. The investigative report shows the victim was offered an advocate but declined.

| | |
|-------------------------------------|---|
| 115.22 | Policies to ensure referrals of allegations for investigations |
| <input type="checkbox"/> | Exceeds Standard (substantially exceeds requirement of standard) |
| <input checked="" type="checkbox"/> | Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period) |
| <input type="checkbox"/> | Does Not Meet Standard (requires corrective action) |
| <input type="checkbox"/> | Does Not Apply |

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

DOM Chapter 5, Article 44, Section 54040.12 Investigations requires that all allegations of sexual violence, staff sexual misconduct and sexual harassment be investigated and the findings documented in writing. If an offender on offender investigation is criminal, it is referred to the District Attorney for review and prosecution when applicable. If the allegation involved staff, LAC's Internal Affairs completes the investigations. Interviews with staff showed that all allegations are forwarded for investigation as required by the standard and the DOM. LAC provided the auditor with an up-to-date list of PREA allegations/investigation that were conducted within the last 12 months which showed LAC had received 33 allegations of offender sexual abuse or harassment, 5 of which were reported to have occurred at other facilities and was forwarded to the appropriate facility. Of the 28 allegations that reportedly occurred at LAC, 14 have been closed and the other 14 remain open.

CDCR's policy regarding the referral of allegations of sexual abuse or sexual harassment for criminal investigation is published on the agency website.

115.31 Employee training

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

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

DOM Chapter 5, Article 44, Section 54040.4 states "All staff, including employees, volunteers, and contractors, shall receive instruction related to the prevention, detection, response, and investigation of offender sexual violence, staff sexual misconduct, and sexual harassment. This training will be conducted during new employee orientation, annual block training, and will be included in the curriculum of the Correctional Training Academy. The training will be gender specific based on the offender population at the assigned institution." Review of PREA training curriculum revealed that all staff who have contact with offenders participate in a comprehensive training that gives detailed information addressing all 10 required topics, that is gender specific and scenario activities are reviewed at the end of training to ensure that all participants understand the material taught in the lesson.

The facility Training Officer and random staff were interviewed. The facility Training officer report that training is regularly conducted during New Employee Training, as part of Annual Block Training and in OJT training. The random staff interviewed also indicated that they had received PREA training and receive it annually during their block training. All were knowledgeable of the agency's zero-

tolerance requirement as well as their responsibilities as they relate to PREA. Training records reviewed demonstrated staff receive training as outlined in policy.

115.32 Volunteer and contractor training

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

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

DOM, Chapter 5, Article 44, Section 54040.4 states “All staff, including employees, volunteers, and contractors, shall receive instruction related to the prevention, detection, response, and investigation of offender sexual violence, staff sexual misconduct, and sexual harassment. This training will be conducted during new employee orientation, annual block training, and will be included in the curriculum of the Correctional Training Academy. The training will be gender specific based on the offender population at the assigned institution. Participation in the training will be documented.” A review of the training curriculum and documentation of training completion revealed that volunteers and contractors are notified of agency’s zero-tolerance policy regarding sexual abuse and sexual harassment and receive instruction related to the prevention, detection, response and investigation of offender sexual violence, staff sexual misconduct and sexual harassment and on how to report such incidents. The agency provided documentation confirming that volunteers and contractors have been trained. The facility training officer interview confirmed the facility’s compliance with this standard.

115.33 Inmate Education

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

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

DOM Chapter 5, Article, 44, Section 54040.4 states that offenders shall be provided both verbal and written information which will address prevention/intervention, reporting, and treatment and counseling. Initial offender orientation on PREA will be provided to the offender population in reception centers (RC) via either written or multi-media presentation on a weekly basis in both

English and Spanish. Approved PREA posters which contain departmental policy and the sexual violence, staff sexual misconduct, and sexual harassment reporting telephone numbers shall be posted in designated location throughout the institution and parole offices. At a minimum, these areas shall include all housing units, medical clinics, law libraries, visiting rooms, program offices, and offender work areas. The PREA brochure entitled "Sexual Assault Awareness" and the PREA booklet entitled "Sexual Abuse / Assault – Prevention and Intervention" will be distributed during initial processing in RC institutions. Both the brochure and booklet shall be available through correctional counselors at each institution, and the information will also be included in each institution's offender orientation handbook. Appropriate provisions shall be made to ensure effective communication for offenders not fluent in English, those with low literacy levels, and those with disabilities.

Interviews with random staff from the receiving unit and random offenders from throughout the facility confirmed that offenders received PREA information as outlined in policy. The offenders who have arrived within the last 2 years indicated that they received the information during intake. The offenders that have been at the facility for longer than 2 years indicated that they received PREA education in the form of pamphlets and posters. In addition, the facility provided documentation demonstrating offenders receive PREA information during intake.

The agency provides offender education in formats accessibly to all offenders, including those who are limited English proficient, deaf, visually impaired, otherwise disabled, as well as to offenders who have limited reading skills by printing materials in English and Spanish, maintaining agreements with translation services in order to telephone the service when in need of a translator and utilizing bi-lingual staff when appropriate. Offenders sign an acknowledgement showing they have received the required information. During the tour it was noted that PREA information is posted in both English and Spanish in the housing units, work areas as well as other areas accessible to offenders.

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| 115.34 | Specialized training: Investigations |
| <input type="checkbox"/> Exceeds Standard (substantially exceeds requirement of standard) <input checked="" type="checkbox"/> Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period) <input type="checkbox"/> Does Not Meet Standard (requires corrective action) <input type="checkbox"/> Does Not Apply | |
| Auditor comments, including corrective actions needed if does not meet standard | |
| <p>In addition to the general training provided to all employees pursuant to Standard 115.31, DOM Chapter 5, Article 44, Section 54040.4 states "All employees who were assigned to investigate sexual violence and/or staff sexual misconduct will receive specialized training per PC Section 13516 (c)." In addition, the policy shows, "The Hiring Authority or PREA Compliance Manager (PCM) shall ensure employees investigating incidents of sexual violence and/or staff misconduct are properly trained." The facility provided training records from that PREA Investigation training as proof. The curriculum</p> | |

provided, upon examination, met all requirements of the standards and included a knowledge quiz, and interviews with Investigative Staff revealed that they were adequately trained.

115.35 Specialized training: Medical and mental health care

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

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

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

Training staff provided ample documentation to demonstrate that medical and mental health staff receives the training required by 115.35 Employee Training and interviews with both medical and mental health staff verified this. However, medical and mental health staff does not receive “specialized training” as required by this standard. While forensic exams are conducted by certified sexual assault nurse examiners, medical and mental health staff must receive specialized training that alerts them to warning signs and symptoms they should be aware of in their day to day work in a facility. Often offenders do not report sexual abuse and facilities must rely on medical and mental health staff to be aware of indicators and signs of possible abuse or harassment, have the skills to talk with victims who are afraid to report and to forward suspicions on to the appropriate staff.

Corrective Action:

- Develop and provide Specialized Training to medical and mental health staff.
- Provide auditor with the finalized curriculum.
- Provide the auditor with signed acknowledgements showing medical and mental health staff received specialized training.

Corrective Action Period:

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

115.41 Screening for risk of victimization and abusiveness

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

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

CCR Title 15, Article 1.6, Subsection 3269. Inmate Housing and DOM Chapter 5, Article 44, Section 54040.6 addresses the components staff will consider when determining offender housing. Policy shows, the initial screener is to be conducted immediately upon the offender’s arrival to the institution. An in-depth review of the intake screener showed it does not contain all criteria required by subsection (d) of this standard. The initial screener does not take into account whether the offender has prior convictions for sex offenses against an adult or child; whether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming; and the offenders own perception of vulnerability. In addition, the design of the intake screener does not allow for consistency to be applied to all offenders in that the PREA criteria are not scored objectively. Risk of victimization or abusiveness for offenders housing placement is at the discretion of the individual conducting the assessment.

During the onsite audit interviews, staff members who conduct the screener could not articulate how the criteria required by this standard were applied when determining offender housing placement. Interviews with offenders indicated that their own perception of vulnerability is not asked, along with how they identify in regards to gay, lesbian, bisexual, transgender, intersex, or gender nonconforming.

Following the initial intake screener and placement, offenders then meet with the Classification Committee within 14 days of arrival. The committee asks the offenders if they have any new or relevant information to provide regarding PREA since the intake screener conducted. Offenders interviewed confirmed that they are reviewed by the Classification Committee within 14 days of arrival, and were asked if they had any new information to provide.

CCR Title 15, Article 1.6 Inmate Housing, Section 3269.1 Integrated Housing, shows the appropriateness of the offender’s housing will be reassessed at the offender’s annual review by the Classification Committee. However, policy does not specify that an offender can be reassessed when warranted due to referral, request, and incident of sexual abuse or receipt of addition information. Furthermore, policy does not address that offender may not be disciplined for refusing to participate in the intake screener or if they refuse to answer specific questions on the screener.

Correction Action:

- The agency shall develop an intake screener to include the criteria outlined in 115.41 (d) and (e), that objectively assess offenders for their risk of being sexual abused by other offenders or their risk of being sexually abusive toward other offenders.

- The agency should provide LAC staff with training on how to conduct the intake screener within 180 days.
- The agency must provide the auditor with documentation showing staff received training.
- LAC must provide 5 examples of risk screeners conducted over a 30 days period that demonstrates LAC has implemented an objective risk screener.
- LAC should revise policy to incorporate language that staff may reassess an offender when warranted.
- LAC should revise policy to include offenders may not be disciplined for refusing to answer questions as result of the screener.

Corrective Action Period:

During the Corrective Action Period, CDCR developed and implemented an objective PREA Screening assessment screener. The screener addresses each variable required by this standard. LAC provided sign in sheets demonstrating staff were trained on utilizing the PREA Screener. LAC assesses offenders at intake and then within 14 days of intake, a Classification Committee reviews the assessment. LAC provided 5 examples of assessments to demonstrate compliance. All examples show the offender was assessed at intake and the review occurred within 14 days. The Classification Committee’s reports show the offender is asked if he has been a victim of a sexual assault since his incarceration.

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

Recommendation:

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

| 115.42 | Use of screening information |
|---|------------------------------|
| <input type="checkbox"/> Exceeds Standard (substantially exceeds requirement of standard) <input checked="" type="checkbox"/> Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period) <input type="checkbox"/> Does Not Meet Standard (requires corrective action) <input type="checkbox"/> Does Not Apply | |

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

As outlined in 115.41, the agency does not have a risk screener in place to objectively assess offenders for risk of victimization or abusiveness; therefore, the agency cannot meet the elements of subsections (a) and (b) of this standard.

DOM Chapter 6, Article 12, Section 62080.14 Transgender Inmates does not adequately address how transgender and intersex offenders should be assessed and reviewed. Policy does not outline how the facility will consider all components in subsections (b), (c), (d), (e), and (f) of this standard, nor that the facility will make considerations on a case-by-case basis.

During the onsite audit it was determined that 3 offenders housed at the facility identified as transgender. Staff indicated that the information pertaining to case by case assessments of transgender offenders should be contained in their respective Initial Housing Reviews and Classification Committee chronological log. Initial Housing Reviews and Classification Committee chronological logs were obtained and reviewed for each offender and the documents did not contain any information pertaining to subsections (b), (c), (d), (e), and (f) of this standard. Also, all three offenders were interviewed and verbalized that they have not been offered the opportunity to shower alone.

Correction Action:

- The agency/LAC shall develop a policy to utilize the results of the objective risk screener required by 115.41 to make informed decisions on housing, bed, work, education, and program assignments that will minimize interactions between offenders who are at high risk of victimization and offenders who are at high risk of being sexually abusive.
- The agency/LAC to provide the auditor with documentation demonstrating the results of the risk screener is being used to inform decisions on housing, bed, work, education, and program assignments.
- LAC shall develop a process to ensure transgendered and intersex offenders' placement and programming assignments are assessed and reviewed for any threats to their safety every 6 months.
- Provide auditor with the plan to ensure transgendered and intersex offender assessments are conducted.
- Provide auditor with documentation demonstrating placement and programming assignments for transgendered/intersex offenders were reviewed for threats and safety concerns within 180 days from this report.
- Provide auditor with documentation demonstrating transgender/ intersex inmates are given the opportunity to shower separately from other offenders.

Corrective Action Period:

As noted in standard 115.41, the facility has implemented an objective screening instrument. The Classification Committee reviews the screener with the offender within 14 days of intake. In addition, the Committee reviews all the information in the electronic system to determine housing, programs, education, and work assignments.

LAC has had a practice of requiring offenders assigned to segregation to shower together with their cellmates with no consideration given to the gender in which they identified. To address this issue, LAC issued an addendum to OP #505 Administrative Segregation Unit procedure which states, "Identified transgender or intersex inmates shall be offered the opportunity to shower separately from their cellmates." In addition, the DOM was revised to state, "Per 28 CFR, Standard §115.42, upon request, transgender and intersex inmates shall be given the opportunity to shower separately from other inmates."

To ensure that transgendered and intersex offenders' placement and program assignments are assessed and reviewed for threats to their safety every 6 month, CDCR issued a memorandum to the Associate Directors, Division of Adult Institutions Wardens, PREA Compliance Managers and the Classification and Parole Representatives. The subject of the memorandum is "Transgender Biannual Reassessment for Safety in Placement and Programming" and states that on a biannual basis, the PREA compliance managers will receive a list of identified transgender and intersex offenders. The list will include the month the offender is scheduled for their next annual classification review. During the biannual review, Correctional Counselors will ask the offender about any threats they have received and shall review the offender's case factors in the Strategic Offender Manager System (SOMS) and the Electronic Records Management System (ERMS) for additional information to assess placement and programming concerns. The Correctional Counselor will document the review in the Classification Committee Chrono.

LAC did not house any transgender offenders during the corrective action period, therefore, could provide not documentation to demonstrate this directive is in practice.

| 115.43 | Protective custody |
|---|--------------------|
| <input type="checkbox"/> Exceeds Standard (substantially exceeds requirement of standard) <input checked="" type="checkbox"/> Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period) <input type="checkbox"/> Does Not Meet Standard (requires corrective action) <input type="checkbox"/> Does Not Apply | |
| Auditor comments, including corrective actions needed if does not meet standard | |
| <p>DOM Chapter 5, Article 44, Section 54040.6 requires that offenders assessed at high risk for sexual victimization will not be place in segregated housing unless an assessment of all available alternatives has been completed. The policy continues to show, that offenders at high risk for sexual victimization shall have a housing assessment completed immediately or within 24 hours of placement into segregated housing. Interviews with the warden and staff who supervise offender in segregated housing confirmed that segregated housing would be the last resort for housing.</p> | |
| <p>Effective October 20, 2016, CDCR amended CCR Article 7, 3335 Administrative Segregation to now require that victims placed in non disciplinary segregated housing be afforded programs, privileges</p> | |

and education. However, if the facility is unable to afford privileges the regulation requires appropriate documentation as required by this standard. In addition, the amended regulation requires the victim only be held in segregated housing until an alternative means of separation can be arranged which shall not ordinarily exceed a period of 30 days. If segregated housing continues past 30 days, the regulation requires the reason for the extended period of segregation to be documented on the classification chronological log.

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

| | |
|---------------|-------------------------|
| 115.51 | Inmate reporting |
|---------------|-------------------------|

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

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

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

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

The agency does not inform offenders how they can make an anonymous report. The auditors were informed that offenders may ask to remain anonymous when writing or calling the OIG Ombudsperson and the OIG will honor the offender's request, however, nowhere in policy or offender education are the offenders informed of this. Offenders in segregation do not have regular access to a phone to allow them to make an anonymous report to the OIG nor do they have a way to report anonymously by written correspondence. Offenders must hand their mail directly to staff for inspection, prior to the mail being processed. In doing so, the staff immediately has knowledge of where the mail came from, and the intended recipient. In addition, policy does not address that staff must accept anonymous reports.

Correction Action:

- LAC shall develop a method for offenders in segregation to report allegations of sexual abuse and harassment while remaining anonymous and develop a protocol for informing offenders in segregation how to make an anonymous report of sexual abuse and harassment.
- LAC to provide the auditor with the plan to ensure anonymous reporting for offenders in segregated housing and documentation showing offenders are being notified of how to make an anonymous report when housed in segregation.
- LAC shall inform offenders in general population of the avenue to anonymously report sexual abuse and harassment.
- LAC shall provide the auditor with documentation that demonstrates offenders in general population are made aware of how to make anonymous reports.
- The agency should modify policy to incorporate the language in the reporting requirements that staff must also accept anonymous reports from offenders.
- The agency will provide the auditor with the revised DOM or pending DOM revision, a directive to staff notifying them of their responsibility to accept and forward anonymous reports of offender sexual abuse and sexual harassment.

Corrective Action Period:

During the Corrective Action Period, the auditor worked with the CDCR PREA Coordinator to make an informed decision on the current practices utilized by LAC and the agency regarding offender reporting channels available while assigned to segregation. After careful consideration, the audit team agreed with the method CDCR utilized to process mail from segregation units to the OIG, while not a best practice, the team felt it was acceptable. The auditors conveyed to CDCR that to be in compliance with this standard, staff assigned to segregation units should be able to verbalize that correspondence from an offender to the OIG will be processed as legal mail as outlined in CCR Section 3142, Processing of Outgoing Confidential Mail. In addition, offenders must be informed on how to make an anonymous PREA report.

To address these compliance issues, CDCR updated the Sexual violence Awareness brochure that now informs offenders that when making a written report to the OIG, the OIG will keep their name anonymous upon request. In addition, CDCR revised the "CSP-LAC Inmate Orientation Manual" to include language to inform offenders on methods to make an anonymous report. These methods to report include phone numbers that will accept anonymous reports as well as, making anonymous reports by writing to the OIG PREA Ombudsperson. The Orientation Manual also notifies offenders that mail to the OIG will be handled as legal mail.

"CSP-LAC Inmate Orientation Manual" outlines the process for sending legal mail and states, "Outgoing legal mail to approved persons should be given to your Housing Unit Floor Officer. The envelope shall be sealed in front of the officer. The officer will then sign and date the envelope over the sealed area, at the time the letter is accepted from you."

LAC published an addendum to OP #505 Administrative Segregation Unit procedure that states, "All correspondence addressed to a Rape Crisis Center, Office of the Inspector General, and the Office of Internal Affairs shall be process in accordance with California Code of Regulations (CCR), Title 15, Section 3144, Inspection of Confidential."

Recommendation:

The large print “CSP-LAC Inmate Orientation Manual” under “Reporting an Incident” does not include language regarding anonymous reporting. This manual must be updated.

115.52 Exhaustion of administrative remedies

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

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

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

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

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

115.53 Inmate access to outside confidential support services

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

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

DOM Chapter 5, Article 44, Section 54040.8.2 states that a Memorandum of Understanding between the institution and a local rape crisis center shall be established. LAC has an agreement with Valley Oasis Rape Crisis Center to provide support services in incidents regarding sexual abuse. The address and phone number of Valley Oasis Rape Crisis Center is provided to the offenders in the Offender Handbook. In addition, offenders are provided the address to Just Detention International in the agency's PREA brochure. The facility notifies the offenders via the institutional handbook that all telephone calls are recorded.

Informal interviews with offenders during the tour supported that they had received the offender handbook and agency's PREA brochure; however, many offenders could not articulate how to contact outside emotional services or what type of services would be provided.

Recommendation: Offenders should be educated regarding the role of outside emotional support services.

| 115.54 | Third-party reporting |
|---|-----------------------|
| <input type="checkbox"/> Exceeds Standard (substantially exceeds requirement of standard) <input checked="" type="checkbox"/> Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period) <input type="checkbox"/> Does Not Meet Standard (requires corrective action) <input type="checkbox"/> Does Not Apply | |
| Auditor comments, including corrective actions needed if does not meet standard | |
| <p>CDCR has several third party reporting options available on the agency's website which include calling or writing the facility where the offender is housed, the Office of Internal Affairs or the PREA Ombudsperson in the Office of the Inspector General.</p> | |

| 115.61 | Staff and agency reporting duties |
|---|-----------------------------------|
| <input type="checkbox"/> Exceeds Standard (substantially exceeds requirement of standard) <input checked="" type="checkbox"/> Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period) <input type="checkbox"/> Does Not Meet Standard (requires corrective action) <input type="checkbox"/> Does Not Apply | |
| Auditor comments, including corrective actions needed if does not meet standard | |

DOM Chapter 5, Article 44, Section 54040.7 supports this standard. The DOM shows all staff is responsible for reporting immediately and confidentially to the appropriate supervisor any information that indicates an offender is being sexual abused or sexual harassed. Agency policy allows for offenders to report an allegation of sexual abuse and sexual harassment to any staff member. However, as outlined in 115.51 Inmate Reporting, the DOM does not specifically require staff to take anonymous reports of sexual abuse or harassment.

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

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

Recommendation: As noted in 115.51 Inmate Reporting, the agency should revise policy to notify staff of their responsibility to accept and forward anonymous reports of offender sexual abuse and sexual harassment.

| 115.62 | Agency protection duties |
|---|--------------------------|
| <input type="checkbox"/> Exceeds Standard (substantially exceeds requirement of standard) <input checked="" type="checkbox"/> Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period) <input type="checkbox"/> Does Not Meet Standard (requires corrective action) <input type="checkbox"/> Does Not Apply | |
| Auditor comments, including corrective actions needed if does not meet standard | |
| <p>DOM Chapter 5, Article 44 Section 54040.7 addresses the elements of this standard. Policy states all staff members are responsible for reporting immediately and confidentially to the appropriate supervisor any information that indicates an offender is being or has been the victim of sexual violence. Interviews with custody officers and administrators indicated staff would take appropriate action should they receive information an offender is at imminent risk. During the 12 months prior to the audit the facility identified no offenders who were at risk for imminent sexual abuse.</p> | |
| <p>Recommendation: DOM Section 54040.7 should be amended to include language that all staff take immediate action when they learn an offender could be at risk of being sexual abuse. Policy current indicates when an offender is being or has been the victim of sexual violence.</p> | |

| 115.63 | Reporting to other confinement facilities |
|---|---|
| <input type="checkbox"/> Exceeds Standard (substantially exceeds requirement of standard) XX Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period) <input type="checkbox"/> Does Not Meet Standard (requires corrective action) <input type="checkbox"/> Does Not Apply Auditor comments, including corrective actions needed if does not meet standard | |
| <p>DOM Chapter 5, Article 44, Section 54040.7.4 outlines the process facilities must follow should they receive a report from an offender that he was subjected to sexual abuse or harassed at a previous facility. DOM shows it is the responsibility of the hiring authority to notify the hiring authority of the institution where the event occurred and that the notification should occur as soon as possible but no later than 72 hours.</p> <p>In the 12 months prior to the audit the facility had received 5 reports from offenders alleging they were sexually abused while confined at another facility. During the onsite audit, LAC provided documentation showing when each report was received and when it was reported to the facility where the event allegedly occurred. In each event, the appropriate facility was notified within 72 hours of LAC receiving the allegation. During the interview with the Warden, it was learned that when allegations such as these are received, it is the responsibility of the investigative unit to contact the investigative unit at the corresponding institution both by phone and email.</p> <p>The facility also reported that in the 12 months prior to the audit they had received 6 reports from other facilities of offenders alleging they were abused while housed at LAC. The onsite file review indicated that the events were processed as required by department policy.</p> | |

| 115.64 | Staff first responder duties |
|---|------------------------------|
| <input type="checkbox"/> Exceeds Standard (substantially exceeds requirement of standard) XX Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period) <input type="checkbox"/> Does Not Meet Standard (requires corrective action) <input type="checkbox"/> Does Not Apply Auditor comments, including corrective actions needed if does not meet standard | |
| <p>While CDCR’s policy does not use the terminology “first responder”, DOM Chapter 5, Article 44, Section 54040.8 does address “initial contact” with the victim. DOM 54040.8 Initial Contact shows, “Upon Initial contact with an employee, that employee will take the alleged victim to a private secure location...The employee shall make every effort to ensure the victim does not: Shower; Remove clothing without custody supervision; Use the restroom facilities and/or; Consume any liquids.” CDCR has developed three separate forms to document efforts to ensure the victim is separated from the abuser, the crime scene is secure, and that the victim and perpetrator does not destroy or</p> | |

compromise physical evidence. These forms include the Initial Contact Guide, Custody Supervisor Checklist, and the Watch Commander Notification Checklist. A random review of investigative files as well as interviews with staff members confirmed the forms outlined above are consistently utilized and staff easily verbalized their role should they receive an allegation of offender sexual abuse or harassment.

| 115.65 | Coordinated response |
|---|----------------------|
| <input type="checkbox"/> Exceeds Standard (substantially exceeds requirement of standard) <input checked="" type="checkbox"/> Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period) <input type="checkbox"/> Does Not Meet Standard (requires corrective action) <input type="checkbox"/> Does Not Apply | |
| Auditor comments, including corrective actions needed if does not meet standard | |
| <p>LAC has a facility specific institutional plan to coordinate actions taken in response to an incident of sexual abuse. The plan is outlined in LAC’s DOM Chapter, 5, Article 44, Section 54040.1 Supplement Prison Rape Elimination Policy. The DOM supplement requires PREA allegations to be reported to the Watch Commander. CDCR has developed the “Watch Commander Notification Checklist” to ensure appropriate and timely notifications are made to the Investigator, Warden and Advocate and to ensure the victim is transported for a forensic exam, if needed. CDCR has created the Initial Contact Guide which outlined actions to be taken by the first responder following a PREA allegation. A review of 10 randomly selected investigative files show LAC staff members routinely follow their facility specific coordinated response plan.</p> | |

| 115.66 | Preservation of ability to protect inmates from contact with abusers |
|---|--|
| <input type="checkbox"/> Exceeds Standard (substantially exceeds requirement of standard) <input checked="" type="checkbox"/> Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period) <input type="checkbox"/> Does Not Meet Standard (requires corrective action) <input type="checkbox"/> Does Not Apply | |
| Auditor comments, including corrective actions needed if does not meet standard | |
| <p>CDCR’s agreement Between State Of California And California Correctional Peace Officers Association Covering Bargaining Unit 6 Corrections does not limit the agency's ability to remove staff from contact with any offender pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted.</p> | |

| 115.67 | Agency protection against retaliation |
|---|---------------------------------------|
| <input type="checkbox"/> Exceeds Standard (substantially exceeds requirement of standard) XX Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period) <input type="checkbox"/> Does Not Meet Standard (requires corrective action) <input type="checkbox"/> Does Not Apply | |
| Auditor comments, including corrective actions needed if does not meet standard | |
| <p>DOM Chapter 5, Article 44, Section 54040.13 Allegation Follow-up mandates that for at least 90 days following a report of sexual violence or staff sexual misconduct, the institution’s PREA Compliance Manager should ensure the monitoring of the conduct and treatment of offenders or employees who reported sexual violence or staff sexual misconduct and of the victim to ensure there are no changes that may suggest retaliation.</p> <p>CDCR has developed the Protection Against Retaliation-Inmate and the Protection Against Retaliation-Staff forms to ensure monitoring is conducted and documented. The form ensures staff monitors retaliation by tracking disciplinary reports, housing changes/assignments, program assignments, work performance evaluations and conducts face to face interviews.</p> <p>The form requires the monitoring to be conducted bi-weekly and provides space for the monitoring to occur on 6 separate occasions. A review of random investigative files showed that 9 of the 10 files contained a completed Protection Against Retaliation form. It was noted that retaliation monitoring was only occurring for approximately 70 days because staff began the monitoring at the time incident was reported, and not two week after the report, as was intended by the form, therefore there were would not be enough spaces on the form to ensure monitoring for the full 90 days as required by the standard and agency policy.</p> <p>Recommendation: Staff should receive training regarding the use of the form and when monitoring should be initiated.</p> | |

| 115.68 | Post-allegation protective custody |
|---|------------------------------------|
| <input type="checkbox"/> Exceeds Standard (substantially exceeds requirement of standard) XX Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period) <input type="checkbox"/> Does Not Meet Standard (requires corrective action) <input type="checkbox"/> Does Not Apply | |
| Auditor comments, including corrective actions needed if does not meet standard | |

DOM Chapter 5, Article 44, Section 54040.7 Screening for Appropriate Placement shows, “Based on information that the offender has been a victim of sexual violence or victimization, the custody supervisor conducting the initial screening shall discuss housing alternatives with the offender in a private location. The custody supervisor shall not automatically place the offender into administrative segregation. Consideration shall be given to housing this offender with another offender who has compatible housing needs. If single cell status is appropriate, the custody supervisor may designate the offender for single cell housing pending a classification review.”

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

A review of random investigative files show the facility has not had a victim placed in involuntary segregated housing within the last 12 months.

| 115.71 | Criminal and administrative agency investigations |
|--------|--|
| | <p><input type="checkbox"/> Exceeds Standard (substantially exceeds requirement of standard)</p> <p>XX Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)</p> <p><input type="checkbox"/> Does Not Meet Standard (requires corrective action)</p> <p><input type="checkbox"/> Does Not Apply</p> |
| | <p>Auditor comments, including corrective actions needed if does not meet standard</p> |
| | <p>CDCR conducts all criminal and administrative investigations of offender sexual abuse and harassment investigations. DOM chapter 3 and chapter 5 both have sections that address investigations. During the onsite audit a random selection of 10 investigative files were reviewed to ensure investigations were conducted in a prompt, thorough and objective manner. LAC had received 33 allegations of offender sexual abuse or harassment within the last 12 months, 5 of which were reported to have occurred at other facilities and was forwarded to the appropriate facility. Of the 28 allegations that reportedly occurred at LAC, 14 have been closed and the other 14 remain open.</p> <p>Of the 28 allegations of sexual abuse or harassment that was reported to have occurred at LAC, 9 were offender on offender allegations and the remaining 19 involved staff. The auditor found all offender-on-offender allegations were conducted in a prompt manner, taking approximately 30 days</p> |

or less to from the time the facility received the allegation until the investigation was completed. In contrast, investigations involving staff could take an average of 6 months or more to complete.

DOM Chapter 5, Article 55, Section 54040.7.2 addresses third party reporting and the department's website provides family and friends with direction on making such reports. The auditor could find no section in the DOM or in Special Investigator training that addresses the investigation of anonymous reports. In addition, as noted in the corrective action for 115.51 Inmate reporting, offenders are not provided with information regarding how to make anonymous reports.

LAC provided documentation demonstrating that the LDI's assigned to conduct offender sexual abuse and sexual harassment investigation had received Specialized Investigator Training as is outlined in section 115.34 of this report. The specialized training provides each investigator with detailed education regarding the gathering and preservation of direct and circumstantial evidence, including DNA evidence, testimony, etc. Interviews with LDIs support that they attended and understood the training; and, they are well versed in the collection of evidence.

DOM Chapter 3, Article 14, Section 31140.21 addresses compelled interviews and shows, "The determination of whether to conduct the administrative investigation concurrently with the criminal investigation shall be made by the Senior Special Agent in consultation with the Vertical Advocate and BIR [Bureau of Internal Review] in conjunction with the prosecuting agency. In addition, the prosecuting agency shall be consulted prior to any compelled subject interview when criminal charges or court proceedings are pending. If the prosecuting agency requests the Internal Affairs investigation be delayed pending criminal prosecution, that request shall be documented in the case file and in CMS. An administrative investigation, adverse action, or both, shall not be delayed unless it clearly would jeopardize the criminal prosecution. It should also be noted that LAC has a memorandum of understanding with the District Attorney (DA). The MOU lists specific types of investigation that will be forwarded to the DA for review and possible prosecution. All such investigations are forwarded to the DA for review, with or without evidence to substantiate.

Investigators reported that they based the credibility of an alleged victim, suspect or witness on their investigative interviews and their ability to corroborate statements. In addition, investigators shared that LAC does not utilize truth telling devices.

A review of randomly selected investigative files showed that all investigations, including administrative are documented in a written report which contains a description of the physical and testimonial evidence and investigative findings.

Specialized PREA investigator training shows, "The federal PREA standard section 115.71 requires specific retention schedules for inmate and personnel records which relate to a PREA incident. All records are retained for the entire period of time that the suspect is incarcerated or employed by the agency, plus an additional 5 years." The auditor could not find a retention schedule in DOM 54040.20 PREA Data Storage and Destruction as it relates to this standard.

Recommendation: CCR and DOM should be revised to include a retention schedule that requires that written reports and documentary evidence be retained for as long as the abuser is incarcerated or employed by the agency, plus five years.

115.72 Evidentiary standard for administrative investigations

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

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

This standard requires an agency to clearly impose a standard no higher than a preponderance of evidence when determining whether allegations of sexual abuse or sexual harassment are substantiated.

DOM chapter 3, Article 14 Internal Affairs Investigations, Section 33030.13.1 Investigative Findings addresses internal affairs investigations requires that preponderance of evidence be utilized when determining findings on investigations involving staff. In addition, DOM 33030.17 contains the Employee Disciplinary Matrix which is based on establishing a preponderance of evidence; however, DOM does not address preponderance of evidence as it relates to offender-on-offender investigations.

Specialized PREA Investigator Training shows, “Even if a criminal prosecution is not possible, a determination of guilt in a disciplinary proceeding can help stop a predator from victimizing future inmates”. The training does not inform investigators that the agency imposes a standard of preponderance of evidence or lower standard of proof when determining whether allegations of sexual abuse or sexual harassment are substantiated. Investigators interviewed reported that if there is not adequate evidence for the DA to prosecute, then an offender-on-offender investigation would be unsubstantiated.

Correction Action:

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

- The facility to provide investigations showing preponderance of evidence was utilized when determining the finding on a PREA investigation completed within the next 180 days.

Corrective Action Period:

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

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

To demonstrate practice, LAC provided 4 investigative reports to the auditors. Each report included the following statement in the closing, “Based on the information and intelligence gathered during this investigation, it is determined the criteria for “Preponderance of Evidence” were not met, therefore, no referral for criminal prosecution nor California Department of Corrections and Rehabilitation, Rules Violation Report (Administrative Hearing) will be considered at this time.” Of the investigations provided, 3 were unfounded and one was unsubstantiated.

Recommendation:

While the closing on each of the reports uses the term “Preponderance of Evidence” this does not show the facility imposes no standard higher than a preponderance of the evidence to substantiate an investigation. As noted above, 3 of the reports were unfounded. Preponderance of the evidence is not relevant on cases that are unfounded. In addition, if the facility uses preponderance of the evidence to substantiate an investigation, the investigation would not contain the standard of evidence that is required for criminal prosecution.

It is recommended that LAC not add the above standard wording to all investigative reports, but only include preponderance when it is relevant. Preponderance is only relevant when there is not enough evidence to be forwarded for criminal charges but there is enough evidence to show it is more likely than not to have occurred. In cases such as these, an administrative violation should be issued.

| 115.73 | Reporting to inmates |
|---|----------------------|
| <input type="checkbox"/> Exceeds Standard (substantially exceeds requirement of standard) <input checked="" type="checkbox"/> Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period) <input type="checkbox"/> Does Not Meet Standard (requires corrective action) <input type="checkbox"/> Does Not Apply | |
| Auditor comments, including corrective actions needed if does not meet standard | |

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

Investigative staff reported they are responsible for notifying offenders of the findings upon completion of the investigation and providing follow up notifications when necessary. During the onsite audit 10 randomly selected investigative files were reviewed, of those, 7 investigations had been closed. All 7 closed investigative files contained documentation demonstrating the offender had been notified of the findings as required by this standard and CDCR’s policy. While there has been no need for follow-up notifications, investigators were able to verbalize when a follow-up notification would be necessary.

115.76 Disciplinary sanctions for staff

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

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

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

Article 44, Section 54040.12.3 requires that all dismissals for violation of the agency's sexual misconduct and harassment policies or resignations by staff who would have been dismissed be reported relevant licensing bodies.

In the past 12 months the facility has not had a substantiated investigation involving staff sexual misconduct that would required the facility to report to law enforcement or licensing boards.

| 115.77 | Corrective action for contractors and volunteers |
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| <input type="checkbox"/> Exceeds Standard (substantially exceeds requirement of standard) XX Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period) <input type="checkbox"/> Does Not Meet Standard (requires corrective action) <input type="checkbox"/> Does Not Apply |
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Auditor comments, including corrective actions needed if does not meet standard

DOM Chapter 5, Article 44, Section 54040.12.4 supports this standard and states, "Any contractor or volunteer who engages in staff sexual misconduct shall be prohibited from contact with offenders and shall be reported to relevant licensing bodies by the hiring authority or designee."

During the previous 12 months, the facility reported they received no allegations that involved sexual misconduct or harassment perpetrated by contractors or volunteers.

Investigative staff reported they would investigate allegations involving a contractor or volunteer as they would any other PREA case and would refer the investigation for criminal prosecution, if warranted.

Information regarding remedial measures is written into agency contracts.

| 115.78 | Disciplinary sanctions for inmates |
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| <input type="checkbox"/> Exceeds Standard (substantially exceeds requirement of standard) XX Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period) <input type="checkbox"/> Does Not Meet Standard (requires corrective action) <input type="checkbox"/> Does Not Apply |
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Auditor comments, including corrective actions needed if does not meet standard

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

In the past 12 months LAC has had no substantiated investigations of offender-on-offender sexual abuse therefore, there has been no discipline required.

This standard requires that prior to issuing a sanction following a substantiated investigation of offender-on-offender sexual abuse the facility must consider whether an offender’s mental disabilities or mental illness contributed to his behavior. While the facility has not had a substantiated investigation in the last 12 months, they do not have a process for obtaining and documenting that the offender’s mental health or mental disabilities were considered prior to determining sanctions.

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

The facility has issued no violation for false information however, DOM Chapter 5, Article 44, Section 54040.15.1 shows the facility can issue a charge of “making a false report of a crime” only if the evidence received indicates the offender knowingly made a false report.

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

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| 115.81 | Medical and mental health screening; history of sexual abuse |
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- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard** (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)
- Does Not Apply

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

This standard requires an offender who reports past victimization or perpetration that occurred in an institutional setting or in the community be offered medical or mental health services must be offered a follow up appointment with medical or mental health within 14 days.

DOM Chapter 5, Article 44 Section 54040.7: Detections, Notifications and Reporting shows, "If it is reported by an offender during the initial intake screening, 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." This established policy does not address the requirement that this offender be offered a follow up with medical or mental health within 14 days of the intake screening.

Interviews with medical and mental health staff indicated that offenders are not consistently asked about their prior history of victimization or perpetration. In addition, interviews with intake staff and a review of the initial screening tool showed the screening only included the question regarding sexual abuse that occurred in an institutional setting.

During interviews, Mental Health staff indicated during they were not aware that PREA standards require a follow up meeting within 14 days of screening for prior victims and abusers. During staff interviews, both intake staff and Medical/Mental Health staff indicated that only offenders who are victims of recent events during incarceration are referred for Medical/Mental Health services. For these reasons, offenders who have experienced prior victimization and offenders who have previously perpetrated sexual abuse are not offered a follow-up meeting with medical or mental health staff as is required by this standard and by policy.

Through interviews with Medical and Mental Health staff and through documentation review, it was determined that information related to sexual victimization that occurred in an institutional setting is strictly limited to necessary staff. It was also determined through document review and interviews with Medical and Mental Health staff that informed consent is obtained from offenders before reporting about prior sexual victimization that did not occur in an institutional setting.

Correction Action:

- A screening tool should be developed that includes asking offenders about prior victimization or perpetration as outlined in the corrective action for 115.41.
- Intake staff should receive training to ensure all offenders who report a history of sexual victimization or perpetration is offered a follow up with medical or mental health.
- Agency/facility should determine where the offer of medical or mental health follow-up will be documented and how referral will be made to medical or mental health.
- Facility must ensure follow up is provided within 14 days of intake screening if requested.
- Agency/facility must provide documentation showing staff has received training and medical/mental health staff was informed of the requirements of this standard.
- DOM to be revised to include language regarding the screening assessment, offer of follow up and follow up to be provided within 14 days of the intake screening.
- Provide the auditor with documentation demonstrating [9 examples, 3 examples from 3 different month] that offenders are asked about prior sexual abuse or perpetration that

occurred in an institutional setting or in the community, that these offenders are offered follow up and that follow up occurred within 14 days of the intake assessment.

Corrective Action Period:

As noted under standard 115.41, during the corrective action period, CDCR developed and implemented an objective PREA Screener that addresses all components as required by that standard. LAC provided documentation demonstrating Intake staff received training to ensure all offenders who report a history of sexual victimization or perpetration are offered a follow up with medical or mental health.

DOM 54040.7, Referral for Mental Health Screening, was revised. The revised language shows that if an offender reports during the initial intake screening, 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 offender is referred to mental health utilizing the CDCR Form 128-MH5, Mental Health Referral Chrono.

To address the issue of requiring offenders who report past sexual victimization or perpetration during a PREA Risk assessment being offered a follow up with Medical or Mental Health within 14 days, CDCR provide the Mental Health Program Guide that requires that all routine referrals will be seen within 5 days.

115.82 Access to emergency medical and mental health services

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

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

California Correctional Health Care Services policy, Chapter 16, 1.16.1 Prison Elimination Act Policy shows, "When a patient alleges he/she is the victim of sexual violence or misconduct that occurred in an institutional setting, health care staff shall provide necessary and immediate emergency medical attention to the victim and suspect."

In addition, interviews conducted with staff members who have acted as a first responder indicated that medical and mental health practitioners were immediately notified following an allegation of sexual abuse. Interviews with medical and mental health staff indicated that victims of sexual abuse receive immediate access to emergency medical treatment and crisis intervention services. Interviews with random staff indicated a general knowledge that victims of sexual abuse are to receive immediate access to medical treatment. A review of randomly selected investigations file show emergency care provided by medical and mental health was clearly documented in the investigative report.

California Correctional Health Care Services policy, Chapter 16, 1.16.1 Prison Elimination Act Policy also dictates that security staff first responders take preliminary steps to protect the victim. This policy states, “To the extent possible all staff will ensure that there is no physical verbal or visual contact between the victim and suspect.” In addition, interviews with staff who have acted as first responders as well as random staff indicated that immediate steps are always taken to protect the victim prior to medical/mental health services.

California Correctional Health Care Services policy, Chapter 16, 1.16.1 Prison Elimination Act Policy dictates, “It is the SART's responsibility to offer the following:

- Tests for STI/STDs and HIV as medically appropriate for patients who are victims or suspects of sexual abuse.
- Pregnancy tests for patients who are victims of sexually abusive vaginal penetration.
- A forensic medical exam for patients who are alleged victims and suspects of sexual violence.”

In addition, interviews with Medical and Mental Health Staff indicate that victims of sexual abuse are offered timely access to emergency contraception and sexually transmitted infection prophylaxis.

California Correctional Health Care Services policy, Chapter 16, 1.16.1 Prison Elimination Act Policy states, “The copayment shall not be charged if the health care service(s) is considered to be:

- Treatment services relating to sexual abuse or assault.”

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| 115.83 | Ongoing medical and mental health care for sexual abuse victims and abusers |
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| <input type="checkbox"/> Exceeds Standard (substantially exceeds requirement of standard) |
| XX Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period) |
| <input type="checkbox"/> Does Not Meet Standard (requires corrective action) |
| <input type="checkbox"/> Does Not Apply |
| Auditor comments, including corrective actions needed if does not meet standard |

California Correctional Health Care Services policy, Chapter 16, 1.16.1 Prison Elimination Act Policy requires the facility to provide emergency and follow-up treatment; follow-up plans; and necessary referrals to alleged victims or suspects of sexual abuse, staff sexual misconduct and sexual harassment in an “institutional setting”. The policy shows these services are offered at no cost and are provided for victims who require a forensic exam as well as those that report after a delay. In addition, the policy has an Attachment 1 which outlines treatment recommendations for evaluation and follow-up which includes tests for sexually transmitted infections.

The auditor requested documentation of mental health follow-up on 5 randomly selected PREA investigations which included allegations of staff sexual harassment, staff sexual misconduct, abusive sexual contact, and offender sexual harassment. LAC’s mental health unit provided documentation

showing the victims for the 5 randomly selected investigations were evaluated by mental health on the date the allegation was received by the facility.

LAC does not house female offender therefore d and e do not apply.

DOM Chapter 5, Article 44, Section 54040.7 under “Referral for Mental Health Screening” requires that if an offender reports during an “initial intake screening that he has previously perpetrated sexual abuse”, whether this occurred in an institution or community setting he be referred to mental health for an evaluation. Policy does not stipulate that following a substantiated PREA investigation and subsequent violation hearing that the perpetrator must be referred to mental health for an evaluation.

Recommendation: Revise policy to mandate that perpetrators of sexual abuse be referred to mental health for an evaluation following a violation hearing where the offender is found guilty of offender sexual abuse. LAC should develop a protocol to ensure this occurs and that mental health attempts to evaluate the offender within 60 days.

| 115.86 | Sexual abuse incident reviews |
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Exceeds Standard (substantially exceeds requirement of standard)

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

Does Not Meet Standard (requires corrective action)

Does Not Apply

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

DOM Chapter 5, Article 44, Section 54040.17 Institutional PREA Review Committee supports this standard and requires the Hiring Authority at each facility to conduct an incident review at the conclusion of every sexual violence or staff sexual misconduct investigation unless the incident is determined to be unfounded. However, the policy indicates the incident review should normally be scheduled “within 60 days of the date of discovery”, not within 30 days of the completion of the investigation as required by this standard.

LAC maintains the incident review report in the investigative files. Of the 5 random investigative files reviewed to determine compliance with this standard, all 5 contained incident reviews.

Recommendation: Revise policy and practice to ensure the incident review is conducted within 30 days from the completion of the investigation. If the agency feels the initial review should be conducted within 60 days of learning of the incident then it is recommended that the incident review be *finalized* with the team within 30 days of the closing of the case to allow for an adequate review of the evidence and issues identified during the investigation.

LAC's incident review team comply with the requirements of the standard and includes the hiring authority or designee, PREA Compliance Manager, a manager, In-Service Training Manger, medical and mental health representative and the an investigator.

CRCR has developed an Institutional PREA Review Committee report form which ensures that the team reviews all elements required by this standard. The form requires the facility to identify if there was a need to change policy or practice and if a corrective action plan implemented as a result of the incident.

115.87 Data collection

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

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

CDCR has multiple ways to track PREA investigations conducted within the department, which are outlined in DOM Chapter 5, Article 44, Section 54040.19, which shows facilities must add new investigations to the Yearly Tracking Report each month and forward to the Department's PREA Coordinator. In addition, investigators must complete the Survey of Sexual Violence-Incident Adult (SSV-IA) form and forward to the Department's PREA Coordinator within 2 business days from "the date of the allegation". While a review of 10 randomly selected investigative files showed that an SSV-IA was routinely completed and forwarded as outlined in policy if there was an investigation. Through interviews it was learned that if the facility receives an anonymous report and the victim cannot be identified or if the victim denies the allegation, the SSV-IA is not forwarded to the Department's PREA Coordinator. The Department's PREA Coordinator confirmed that these anonymous allegations where the victim is not identified or the victim denies the allegation are not included in the data that is collected and aggregated annually. 28 CFR 115.87 (a) specifically states, "The agency shall collect accurate, uniform data for every allegation of sexual abuse at facilities under its direct control..."

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

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

Corrective Action:

- The agency must ensure that *all allegations*, including allegations where a victim cannot be identified or the victim denies the claim, are included in the data being collected, aggregated and reported to the Department of Justice.
- Provide a directive to investigative staff informing them that *all allegations*, to include allegations where the victim denies the claim or the victim is no identified, will be investigated and the SSV-IA must be completed and forwarded to the PREA Coordinator.
- Provide the auditor with documentation demonstrating all investigators received the directive.
- Provide 3 examples of SSV-IA which are completed and forwarded to the Department's PREA Coordinator of allegations where the victim was unknown or the victim denies the claim.

Corrective Action Period:

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

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

| 115.88 | Data review for corrective action |
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| | <p><input type="checkbox"/> Exceeds Standard (substantially exceeds requirement of standard)</p> <p>XX Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)</p> <p><input type="checkbox"/> Does Not Meet Standard (requires corrective action)</p> <p><input type="checkbox"/> Does Not Apply</p> |
| | <p>Auditor comments, including corrective actions needed if does not meet standard</p> <p>DOM Chapter 5, Article 44, Section 54040.17 Institutional PREA Review Committee and Section 54040.19 Tracking- Data collection and Monitoring supports this standard. These policies require the Departmental PREA Coordinator to review data collected on annual basis and prepare an annual report of her findings and corrective actions. The report is to be routed through the chain of command of the agency Secretary for review and approval then placed on CDCR's website.</p> <p>CDCR's website at http://www.cdcr.ca.gov/PREA/Reports-Audits.html included CDCR's 2016 Annual Report.</p> |

115.89

Data storage, publication, and destruction

Exceeds Standard (substantially exceeds requirement of standard)

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

Does Not Meet Standard (requires corrective action)

Does Not Apply

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

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

In addition, the California Department of Corrections website was reviewed. The website does contain aggregated sexual abuse data. No personal identifiers are contained in this data.

An interview with the PREA Coordinator indicated that sexual abuse data is maintained for 10 years after initial collection as required by this standard and CDCR policy.

AUDITOR CERTIFICATION:

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

Veria Sturm

Auditor Signature

September 19, 2017

Date