

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

Interim       Final

Date of Report    11/26/20

## Auditor Information

Name: Jack Fitzgerald

Email: jffitzgerald@snet.net

Company Name: DX Consultants LLC

Mailing Address: PO Box 55372

City, State, Zip: St Petersburg FL 33732

Telephone: 203-694-4241

Date of Facility Visit: Oct 19-21, 2020

## Agency Information

Name of Agency:

Virginia Department of Corrections

Governing Authority or Parent Agency (If Applicable):

[Click or tap here to enter text.](#)

Physical Address: 6900 Atmore Drive

City, State, Zip: Richmond VA 23225

Mailing Address: PO BOX 26963

City, State, Zip: Richmond VA 23225

The Agency Is:

Military

Private for Profit

Private not for Profit

Municipal

County

State

Federal

Agency Website with PREA Information: VADOC.Virginia.gov

## Agency Chief Executive Officer

Name: Harold Clarke - Director

Email: Harold.clarke@vadoc.virginina.gov

Telephone: 804-887-8081

## Agency-Wide PREA Coordinator

Name: Rose Durbin - PREA/ADA Supervisor

Email: rose.durbin@vadoc.virginina.gov

Telephone: 804-887-7921

PREA Coordinator Reports to:

Jermiah Fitz Corrections Operations  
Administrator

Number of Compliance Managers who report to the PREA  
Coordinator    40 PCMs who report to 3 regional  
PREA Analyst

## Facility Information

**Name of Facility:** Sussex I State Prison

**Physical Address:** 24414 Musselwhite Drive

**City, State, Zip:** Waverly VA 23891

**Mailing Address (if different from above):**

Click or tap here to enter text.

**City, State, Zip:** Click or tap here to enter text.

**The Facility Is:**

Military

Private for Profit

Private not for Profit

Municipal

County

State

Federal

**Facility Type:**

Prison

Jail

**Facility Website with PREA Information:** VADOC.Virginia.gov

**Has the facility been accredited within the past 3 years?**  Yes  No

**If the facility has been accredited within the past 3 years, select the accrediting organization(s) – select all that apply (N/A if the facility has not been accredited within the past 3 years):**

ACA

NCCHC

CALEA

Other (please name or describe: Click or tap here to enter text.)

N/A

**If the facility has completed any internal or external audits other than those that resulted in accreditation, please describe:**

The Virginia Department of Corrections has in place a system to provide ongoing support and monitoring of the agency's efforts to remain PREA compliant. The PREA Coordinator is also in charge of ADA compliance issues. The PREA Coordinator employs three regional PREA/ADA Analyst who make regular site visits to assess compliance.

### Warden/Jail Administrator/Sheriff/Director

**Name:** Ivan Gilmore Warden

**Email:** Ivan.Gilmore@vadoc.virginia.gov

**Telephone:** 804 834-4001

### Facility PREA Compliance Manager

**Name:** Angela Wethington - Operations Manager/ PREA Compliance Manager

**Email:** Angela.Wethington@vadoc.virginia.gov

**Telephone:** 804 834-4001

**Facility Health Service Administrator**  N/A

**Name:** Jayna Smith -HSA

Email: Jayna.Smith@vadoc.virginia.gov	Telephone: 804-834-1384
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Facility Characteristics	
Designated Facility Capacity:	1167
Current Population of Facility:	652
Average daily population for the past 12 months:	678
Has the facility been over capacity at any point in the past 12 months?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Which population(s) does the facility hold?	<input type="checkbox"/> Females <input checked="" type="checkbox"/> Males <input type="checkbox"/> Both Females and Males
Age range of population:	19-86
Average length of stay or time under supervision:	15 years
Facility security levels/inmate custody levels:	Level 5
Number of inmates admitted to facility during the past 12 months:	636
Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for <i>72 hours or more</i> :	345
Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for <i>30 days or more</i> :	338
Does the facility hold youthful inmates?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Number of youthful inmates held in the facility during the past 12 months: (N/A if the facility never holds youthful inmates)	Click or tap here to enter text. <input checked="" type="checkbox"/> N/A
Does the audited facility hold inmates for one or more other agencies (e.g. a State correctional agency, U.S. Marshals Service, Bureau of Prisons, U.S. Immigration and Customs Enforcement)?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>Select all other agencies for which the audited facility holds inmates: Select all that apply (N/A if the audited facility does not hold inmates for any other agency or agencies):</b>	<input type="checkbox"/> Federal Bureau of Prisons <input type="checkbox"/> U.S. Marshals Service <input type="checkbox"/> U.S. Immigration and Customs Enforcement <input type="checkbox"/> Bureau of Indian Affairs <input type="checkbox"/> U.S. Military branch <input type="checkbox"/> State or Territorial correctional agency <input type="checkbox"/> County correctional or detention agency <input type="checkbox"/> Judicial district correctional or detention facility <input type="checkbox"/> City or municipal correctional or detention facility (e.g. police lockup or city jail) <input type="checkbox"/> Private corrections or detention provider

Other - please name or describe: [Click or tap here to enter text.](#)  
 N/A

Number of staff currently employed by the facility who may have contact with inmates:	278
Number of staff hired by the facility during the past 12 months who may have contact with inmates:	96
Number of contracts in the past 12 months for services with contractors who may have contact with inmates:	20
Number of individual contractors who have contact with inmates, currently authorized to enter the facility:	60
Number of volunteers who have contact with inmates, currently authorized to enter the facility:	18

**Physical Plant**

<p><b>Number of buildings:</b></p> <p>Auditors should count all buildings that are part of the facility, whether inmates are formally allowed to enter them or not. In situations where temporary structures have been erected (e.g., tents) the auditor should use their discretion to determine whether to include the structure in the overall count of buildings. As a general rule, if a temporary structure is regularly or routinely used to hold or house inmates, or if the temporary structure is used to house or support operational functions for more than a short period of time (e.g., an emergency situation), it should be included in the overall count of buildings.</p>	6
<p><b>Number of inmate housing units:</b></p> <p>Enter 0 if the facility does not have discrete housing units. DOJ PREA Working Group FAQ on the definition of a housing unit: How is a "housing unit" defined for the purposes of the PREA Standards? The question has been raised in particular as it relates to facilities that have adjacent or interconnected units. The most common concept of a housing unit is architectural. The generally agreed-upon definition is a space that is enclosed by physical barriers accessed through one or more doors of various types, including commercial-grade swing doors, steel sliding doors, interlocking sally port doors, etc. In addition to the primary entrance and exit, additional doors are often included to meet life safety codes. The unit contains sleeping space, sanitary facilities (including toilets, lavatories, and showers), and a dayroom or leisure space in differing configurations. Many facilities are designed with modules or pods clustered around a control room. This multiple-pod design provides the facility with certain staff efficiencies and economies of scale. At the same time, the design affords the flexibility to separately house inmates of differing security levels, or who are grouped by some other operational or service scheme. Generally, the control room is enclosed by security glass, and in some cases, this allows inmates to see into neighboring pods. However, observation from one unit to another is usually limited by angled site lines. In some cases, the facility has prevented this entirely by installing one-way glass. Both the architectural design and functional use of these multiple pods indicate that they are managed as distinct housing units.</p>	5
Number of single cell housing units:	4
Number of multiple occupancy cell housing units:	13
Number of open bay/dorm housing units:	0

Number of segregation cells (for example, administrative, disciplinary, protective custody, etc.):	112
In housing units, does the facility maintain sight and sound separation between youthful inmates and adult inmates? (N/A if the facility never holds youthful inmates)	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
Does the facility have a video monitoring system, electronic surveillance system, or other monitoring technology (e.g. cameras, etc.)?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Has the facility installed or updated a video monitoring system, electronic surveillance system, or other monitoring technology in the past 12 months?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

### Medical and Mental Health Services and Forensic Medical Exams

Are medical services provided on-site?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Are mental health services provided on-site?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Where are sexual assault forensic medical exams provided? Select all that apply.	<input type="checkbox"/> On-site <input checked="" type="checkbox"/> Local hospital/clinic <input type="checkbox"/> Rape Crisis Center <input type="checkbox"/> Other (please name or describe: <a href="#">Click or tap here to enter text.</a> )

### Investigations

#### Criminal Investigations

Number of investigators employed by the agency and/or facility who are responsible for conducting CRIMINAL investigations into allegations of sexual abuse or sexual harassment:	19
When the facility received allegations of sexual abuse or sexual harassment (whether staff-on-inmate or inmate-on-inmate), CRIMINAL INVESTIGATIONS are conducted by: Select all that apply.	<input checked="" type="checkbox"/> Facility investigators <input checked="" type="checkbox"/> Agency investigators <input type="checkbox"/> An external investigative entity
Select all external entities responsible for CRIMINAL INVESTIGATIONS: Select all that apply (N/A if no external entities are responsible for criminal investigations)	<input type="checkbox"/> Local police department <input type="checkbox"/> Local sheriff's department <input type="checkbox"/> State police <input type="checkbox"/> A U.S. Department of Justice component <input type="checkbox"/> Other (please name or describe: <a href="#">Click or tap here to enter text.</a> ) <input checked="" type="checkbox"/> N/A

#### Administrative Investigations

Number of investigators employed by the agency and/or facility who are responsible for conducting ADMINISTRATIVE investigations into allegations of sexual abuse or sexual harassment?	19
When the facility receives allegations of sexual abuse or sexual harassment (whether staff-on-inmate or inmate-on-inmate), ADMINISTRATIVE INVESTIGATIONS are conducted by: Select all that apply	<input checked="" type="checkbox"/> Facility investigators <input checked="" type="checkbox"/> Agency investigators <input type="checkbox"/> An external investigative entity

**Select all external entities responsible for ADMINISTRATIVE INVESTIGATIONS: Select all that apply (N/A if no external entities are responsible for administrative investigations)**

- Local police department
- Local sheriff's department
- State police
- A U.S. Department of Justice component
- Other (please name or describe: [Click or tap here to enter text.](#))
- N/A

# Audit Findings

## Audit Narrative

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

The Prison Rape Elimination Act (PREA) audit of the Virginia Department of Corrections facility the Sussex I State Prison took place during the week of Oct 18, 2020. The Audit was conducted by Mr. Jack Fitzgerald, a United States Department of Justice Dual Certified PREA Auditor. Mr. Fitzgerald is working as a representative of DX Consultants LLC. of St. Petersburg, Florida, who has the contract for PREA Auditing Services. The Sussex I State Prison is one of 42 adult prisons run by the Department of Corrections. The Sussex I State Prison is a level 5 facility, the highest-level facility in the state system. Members of the population include inmates on death row, inmates with significant crimes, and individuals who have been aggressive in other environments. The average length of sentences for inmates housed at SISP is 15 years. With a capacity of just over 1160 inmates, the facility employs 367 correctional staff and contracted Medical and Mental Health staff. The Facility is located approximately 60 miles from the Department of Corrections Central Office in Richmond, VA, in the state's southeastern region.

The Auditor and the Department of Corrections began discussions in August approximately 9 weeks before the site visit. The facility was previously audited three years earlier in 2017. DX Consultants LLC. provided an Audit Notice in two languages to the facility in August, nine and a half weeks before the audit. The Facility PREA Compliance Manager posted the notice in English and Spanish, the two most common languages spoken at SISP, and sent photo evidence. The notice provides inmates with information about the Audit, how to contact the Auditor, and the mail's confidential nature. The Auditor confirmed the notices through visual observation on the tour and discussions with inmates. The notice did result in confidential communication from inmates, staff, or other interested parties. Throughout the Pre-audit phase, the Auditor had communications in the form of phone calls, video meetings, emails, and text with the state PREA Coordinator, PREA Analyst, the Warden, and the facility's PREA Compliance Manager. The Auditor received an encrypted flash drive containing electronic PREA files and the pre-audit tool information nine weeks before the on-site audit.

During the Pre-Audit phase, the Auditor worked with PREA Coordinator Rose Durbin, Eastern Regional PREA Analyst Brian Schuyler, Warden Ivan Gilmore, and SISP PREA Compliance Manager Angela Wethington. Information was exchanged through emails, video, and phone contact to provide clarity of information provided and where additional information to support compliance was requested. The Auditor provided to the Virginia DOC, during the Pre-Audit phase, a review of information submitted, questions on information provided, and request for additional information to support compliance when onsite. The Auditor received on-site, highly organized information to review. To help expedite the process on-site, the Auditor picked dates of video to show supervisory tours in advance. The Auditor also provides a list of inmate files and staff files needed to complete a sampling of the population. The Auditor provided the agency with a tentative idea of the audit day, including approximate times on-site and the list of targeted populations that would need to be identified. The Auditor encouraged the agency to use the information online about the audit process to work with staff, so they had an increased level of comfort to what the audit process was and what to expect.

The Auditor arrived in southeastern Virginia on October 18, 2020, in preparation for the audit. The Auditor arrived at the facility at 7:45 am on October 19th. Out of an abundance of caution during the COVID-19 crisis, the Auditor was required to complete a daily health screening before entering the facility as part of COVID-19 precautions and all staff and inmates wore masks throughout the visit.

After some informal interactions with staff, the Auditor was escorted to a large meeting room to meet the SISP Warden Ivan Gilmore and state PREA Coordinator Rose Durbin and the facility’s leadership. An entrance meeting was held with Warden Gilmore, PREA Coordinator Durbin, Eastern Region PREA Analyst Brian Schuyler, PREA Compliance Manager Angela Wethington, the Chief of Housing and Programming, the AMA of Operations, Training Academy Captain, Director of Security, Unit Managers, industry and food service supervisors, the Health Services Administrator, Commander of Investigation Unit, Shift Commander, other custody and support staff. The Auditor thanked the facility for the work they had done in preparing the Pre-Audit tool and supporting documentation. The Auditor then explains his background and experience in Auditing, the Audit goals, and what to expect throughout the three full-day process. The Auditor reviewed the tentative schedule, tours, interviews, supporting documentation verifications, and that he expected to be on-site for about 30 hours over the three days. The Auditor's actual on-site total of 37 hours in the three days (Day 1 13.5 hours, Day 2 12.5 hours, Day 3 11 hours) allowed for staff observation and inmate interactions across the shifts. The Auditor finished the meeting by reviewing the fairness of the process, the reason for the interviewees' random selection, and how the Auditor formulates conclusions in determining compliance. Warden Gilmore, Ms. Durbin, and Ms. Wethington provided a review of PREA related data and the facility’s efforts in preparing for the audit.

The facility and the VA DOC worked with DX Consultants to identify the key staff who would make up the administrative interviews and the specialized interviews.

Administrative Interviews	
Agency Head	Harold Clarke- Director of Virginia Department of Corrections
PREA Coordinator	Rose Durbin – PREA Coordinator
Facility Director/ Warden	Ivan Gilmore – Warden Sussex I State Prison
PREA Compliance Manager	Angela Werthington- PREA Compliance Manager SISP
State Contract Administrator	Dean Ricks-

The Auditor utilized regional resources identified by the facility to address specialized interview topics that the agency does not employ. This process aimed to ensure enough resources were available to the clients in the event of a sexual assault. The Auditor received information by email or through direct communication with individuals outside SISP and completed web searches to assist in determining standard compliance. The Auditor also did web-based searches for news stories, state laws related to mandated reporting, state required protocols for sexual assault case handling, and SAFE/SANE Certification process requirements. The Agency does not employ individuals who provide SAFE or SANE services, The Virginia Department of Corrections contracts with one facility for inmates. The facility, which is run by the GEO Group, has one full-time DOC employee on-site and the Eastern Region PREA Analyst completes site visits. Where appropriate, the Auditor utilized information from random staff interviews to help in the determination of compliance in his review of standards. Virginia DOC employs several individuals who have completed training on Investigating Sexual Abuse in a Correctional Setting and the DOC has criminal investigators assigned by region who have full law enforcement authority to conduct investigations at the facility and, if needed, into the community. The Auditor was also able to interview a staff who completes intakes, the initial PREA screening, and the reassessments. The Auditor was walked through the intake process to understand how the tool is completed and the process of asking related questions needed to correctly score the tool. There were limited intakes due to COVID -19 preventing observation of the intake process.

Specialized Staff Interviews	
Position described in standards	Title or agency who provided information to answer required questions.



Medical Staff	Armor Medical staff Virginia Commonwealth University Medical Center staff
Mental Health Staff	Armor Mental Health Staff
Individuals who have done cross gender searches	No staff have completed cross gender strip of pat searches.
Intermediate or Higher-level supervisor	Lieutenants Sergeants Unit managers
Individuals Working with Youthful inmates	Not Applicable – SISF does not service youth under 19
Administrative Staff	Human Resources
SAFE/SANE	Virginia Commonwealth University Medical Center staff
Volunteers or Contractors who have contact with inmates	Volunteers
Investigative Staff	Correctional Investigator-
Screening Staff	Intake Officer Medical Staff
Intake Staff	Intake officer
Local Rape Crisis Agency	Action Alliance
Individuals responsible for retaliation monitoring	PREA Compliance Manager
First Responder	Random staff
<b>Random Staff Interviews</b>	
Random interviews	Completed 12
Staff Informal tour contacts	The Auditor spoke with 25 staff during the initial tour.

The Auditor worked with the facility Administration to identify *Targeted inmates* for interviews to be completed. The current population make up did not allow for the identification of inmates in each of the targeted categories for a 500 to 1000 bed Prison facility as promulgated by Auditor Handbook. Though the rated capacity population is above 1000 the 12-month average leading up to the site visit was under 1000 inmates. COVID -19 and the closure of one housing building to replace cell doors had the population down to about 650 inmates daily. SISF does not house youthful inmates and has not used segregated housing to protect a victim of sexual assault in the past three years. The Auditor worked with PREA Analyst and the PREA Compliance Manager to find additional targeted populations. The Auditor ensured the *Random inmates* selected for interviews were a diverse representation of the population looking at ethnicity, age, gender, and housing locations.

After completing the initial entrance meeting on day one, the Auditor took a tour led by the Warden and PREA Compliance Manager. The facility also provided a staff person to act as a scribe to document the names and titles of the staff the Auditor interacted with along with the number of inmates the Auditor had a conversation within each setting. During the tour, the Auditor spoke to inmates who were at work, on housing floors, and in their cells. The Auditor attempted to interact with as many inmates on the tour as possible to further assess the inmates' perception of safety, their knowledge of PREA, how to report concerns, access to counseling services, and if they knew an audit was occurring. The Auditor toured all areas of the facility except one and walked all tiers to ensure inmates in their cells had an opportunity to speak to the Auditor. The Auditor did not enter one housing pod as the unit was designated a red zone or medical isolation for those individuals in the population with COVID 19 or who had close exposure. The Virginia DOC website updates daily the active cases per institution. In two other pods, designated yellow

zones, the Auditor had to wear a PPE Gown, gloves in addition to a mask during the tour, and interviews that had to take place on the pod. The Auditor also took the time, when practical, during the tour to make announcements to notify individuals that they may be requested for an interview and how their interview would inform the audit process.

Inmate Interviews for facilities with 500-1000 population		
	# Interviews Required	# of Interviews Completed
Random inmates	15	16 18 attempted
Targeted inmate Interviews	15	15- Completed 16 attempted
Youthful Inmates	3	0 -NA at SISP
inmates with Physical Disability	3	5 Completed
inmates who are blind, Deaf, or hard of hearing		
Inmates who are LEP		
Inmates with a Cognitive Disability		
Inmates who Identify as Lesbian, gay, or Bisexual	1	3 Completed
Inmates who Identify as Transgender or Intersex	2	2 Completed
Inmate in segregated housing for risk of victimization	1	0- (NA at SISP 0 cases in 3 years)
inmates who reported Sexual Abuse	3	2 Completed (only 2 current in population who reported abuse at SISP)
Inmates who reported victimization during screening	2	3 Completed
Total	30	31
Informal inmate conversations during the tour		68

The tour took several hours to cover the expansive facility and allowed the Auditor to go into all areas of the facility except as described above. The Auditor noted lines of sight, cameras and spoke with staff in each area about potential risk and how inmates with victimization histories are kept away from individuals with perpetrating histories. In addition to custody staff, the Auditor learned about the therapeutic programs, educational opportunities, recreational outlets, and the work opportunities inmates have.

After the completion of the tour, the Auditor began the interview process. The Auditor began seeing inmates from the facility. The Auditor was always provided space to have confidential communication with inmates. The Auditor began each interview with an introduction, the purpose of the audit, that their participation was voluntary, and that the information would be confidential unless there was an individual at risk of harm. Interviews and file reviews continued on days two and three.

The Auditor reviewed the required publicly available data on PREA Investigations on the agency website. The Auditor confirmed this information with Agency and Facility staff and inmates while on site. The Auditor also confirmed with community agencies (hospitals and local rape crisis agencies) if they were aware of any incident of sexual assaults.

On day two, the Auditor reviewed current inmates' files and former inmates' files during the audit process. The Auditor looked to see if mechanisms in place to ensure, educate inmates about PREA, complete initial

screening and 30-day reassessments of PREA risks, and where appropriate required other reviews took place.

The Auditor provided to the Human Resources Department a chart to be completed on a random selection of 30 staff names selected out of the 400 employees and contractors at SISP. The agency provided information on all 34 employees/contractors, providing information on hire, background checks, initial and 5-year background checks, PREA education, and appropriate prior institutional employer checks. The Auditor reviewed training record rosters and used the information to verify the remaining employees' training information.

Documentation Reviews				
Client Files	Total population	652	Number reviewed	45 current and closed
Human resource files	Total Staff	412	Number reviewed	32 employees/contractors
Number of PREA Investigations	2020 Allegations	62	Number reviewed	18

At the closure of the third day, the Auditor held an exit meeting. In attendance were 6 personnel from the facility and the DOC Administration including the VA DOC Eastern Regional Administrator of Institutions Marcus Elam, Warden Gilmore, Assistant Warden Martin Bryant, the Manager of Correctional Operations/PREA Coordinator Durbin, Eastern Region PREA/ADA Analyst Schuyler and PREA Compliance Manager Wethington. The Auditor thanked the members of the team for a supportive audit process by which staff and inmates were easily accessible. The Auditor reviewed some of the staff and inmate comments during the audit process which supported a positive environment. Inmates reported the facility is safe especially related to PREA and could approach staff with a problem and felt it would be investigated. Finally, the Auditor described the post-audit process which will require the Auditor to review the sum of all information provided including documents, interviews, and observations. The Auditor went on to state the process must include how all indicators of the PREA standards must be considered in determining compliance. The Auditor acknowledged that some measures appeared to need some additional steps to address concerns identified in the audit process.

During the post-audit period, the Auditor was provided some clarifying documentation and agreed upon remedies for issues raised during the site visit including some retraining of the screening process. During this time, the Auditor worked through DOCs Eastern Region PREA Analyst utilizing emails and video calls. Timetables were agreed upon for the obtainment of records.

## Facility Characteristics

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

The Sussex I State Prison has been in operation for just over 22 years on a parcel of farmland in Waverly, Virginia. The facility location is in rural farmland approximately 50 miles from the DOC Central Offices in Richmond, VA. The Sussex I State Prison is in the midst of two construction projects. The facility is replacing the cell doors one building at a time. Once a building has been completed, another

unit's population will be moved to allow a second unit to be completed. The facility also has undergone a renovation of an educational and vocational area. Though the educational project was underway when the Warden arrived early this year, he has reviewed the space for safety concerns, including identification of posts, bathroom use protocols, and lines of sight. Each of these projects has seen delays due to the pandemic but the Warden was able to describe how they will benefit the population and safety concerns that were considered in the projects. The Facility has six buildings, five inside the perimeter and an administrative building outside the fenced area. The Auditor went to all buildings where inmates would have access and toured spaces looking for blind spots and checked that doors to closets, offices, and other spaces were locked when not in use.

The Auditor was provided the current population roster for the facility which included 652 inmates with no female or youthful inmates. The Inmate population security classification at SISF includes a level four and level five inmates who have sentences from 2 years to life with the facility currently housing 2 inmates on death row. The majority of the facility accessible by inmates is within a secure perimeter. Facility program space has long wide corridors and ample windows to classrooms, dining, and exercise rooms. The housing units at SISF have toilets in the cells with showers on each of the housing walks with privacy barriers. The facility has 5 housing units with 4 units each consisting of 4 pods. These units are two-story with cells that can hold up to two inmates per cell. The pods have one office in an elevated observation post between two pods. The housing POD officer that covers one or two pods depending on the population on the floor at a time. The 5th unit contains inmates who are allowed to work with outside contractors on construction projects. Originally designed as an isolation unit, the smaller space will enable inmates working a quieter space during their downtimes during the day.

The facility has pods for inmates with discipline, mental health, and protective custody concerns as well as death row. COVID-19 has impacted inmates out of cell time to reduce the spread of the disease. The Auditor was able to see privacy barriers that allowed inmates privacy while showering while allowing the officer on duty to see feet and heads to complete counts. The units had good lines of sight from the staff workstation or from the pod officer who moves about the unit. Staff make routine tours of the unit's spaces and were aware of blind spots and the need to monitor areas where inmates congregate. Management staff also make random tours in the facility which were documented in unit logs. Staff report they are aware of individuals with aggressive histories and those who might be at a greater risk. This information is shared through unit management, but they might not know the specific reason for a particular status. The Unit Manager and caseworkers have offices on the unit allowing easy access to inmates and an additional set of eyes and ears moving through the unit to help in inmate monitoring. Intelligence unit staff also report completing tours of the environment in addition to the shift commanders. The private space is available on the unit to allow the inmates to disclose a concern. During the COVID -19 outbreak professional visitors and volunteers have been halted on-site.

The Auditor made two visits to most housing units in the facility. In each of the units, there was PREA information posted including the audit notice. The facility has PREA posters displayed in English and Spanish. In addition to housing, the posters were in the lobby and other common areas. The posters have numbers or addresses for inmates to report PREA concerns to DOC or an outside agency. The Auditor confirmed the phone numbers listed on the posters were accurate to the agencies listed. The Auditor tried a call to the PREA hotline which all inmates were aware of (#55). The Auditor confirmed this relationship with the Action Alliance staff.

The facility has three hundred and twenty-five cameras to cover the facility's buildings, including both interior and exterior views. It was reported that camera upgrades had already begun to occur as part of

facility improvements including higher definition cameras that allow for precise identification from longer distances and an increased capacity for video storage and playback. The Warden and PREA Compliance Manager pointed out technology improvements including where cameras were replaced, PTZ zoom cameras added, or mirrors added to limit blind spots.

Inmates are provided with access to an indoor gymnasium, exterior recreation compounds. Mental health, medical services all are found in the programs building. The educational environments, religious services, vocational training, and library also occur in the same building. Inmates have work opportunities at SISP, including maintenance and dietary work along with vocational training. One work program visited on the tour, had inmates making dentures for inmates throughout the Virginia DOC. Supervisors in each working environment were able to describe how they maintain a sexually safe environment. The supervisors provided the Auditor with tours of their work areas, explaining how many individuals are allowed in each space, their access to cameras to monitor activity, their active supervision of the space, and how they learn information about clients who may be at risk on their crews.

The dining area was not in use due to not being able to allow social distancing of the population. The COVID -19 crisis has the facility transporting meals in heated boxes to the units for consumption. The medical suite allows for a full array of services including dental and eye exams. Medical procedures can be completed on-site but emergency care for significant injuries would have the inmate taken to a local hospital. The staff who are employed by Armor Correctional Health Services provide supportive services to inmates from a routine sick call and medication management to elder care.

The facility is accredited by the American Correctional Association as an Adult Correctional Institution (ACI).

## Summary of Audit Findings

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

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

**Number of Standards Exceeded:** 1

115.11,

**Number of Standards Met:** 44

115.12, 115.13, 115.14, 115.15, 115.16, 115.17, 115.18, 115.21, 115.22, 115.31, 115.32, 115.33, 115.34, 115.35, 115.41, 115.42, 115.43, 115.51, 115.52, 115.53, 115.54, 115.61, 115.62, 115.63, 115.64, 115.65, 115.66, 115.67, 115.68, 115.71, 115.72, 115.73, 115.76, 115.77, 115.78, 115.81, 115.82, 115.83, 115.86, 115.87, 115.88, 115.89, 115.401, 115.403

**Number of Standards Not Met:** 0

Click or tap here to enter text.

### Summary of Corrective Action (if any)

The SISP facility had made requested corrective measures during the site visit and the reporting period. These measures include a physical plant modification to improve client privacy during shower periods, training on screening scoring, and the implementation of a protocol to ensure the timeliness of incident review meetings. The Auditor worked with the Regional PREA/ADA Analyst to obtain appropriate documentation to support agreed-upon steps were met. During the Audit process, the Auditor made other recommendations on documentation to further support the agency's efforts. Specifics of the corrective steps are contained in the body of the report. No issues required a formal corrective action period to prove the institutionalization of a process.

## PREVENTION PLANNING

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

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

#### 115.11 (a)

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

#### 115.11 (b)

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

### 115.11 (c)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

#### **Policies and written/electronic documentation reviewed.**

OP 038.3 Prison Rape Elimination Act (PREA)  
OP 135.2 Rules of Conduct Governing Employees Relationships with Offenders  
PREA Coordinator and PREA Analyst job descriptions  
Agency-wide flow chart  
Letter Appointing PREA Compliance Manager at Sussex State Prison I  
Facility Management Chart  
Zero Tolerance posters/ notifications

#### **Individuals interviewed/ observations.**

Interview with PREA Coordinator  
Interview with PREA Compliance Manager  
Interview with Director of DOC  
Interview with Warden  
Interview with Staff  
Interview with Inmates  
Tour Observations

#### **Summary determination.**



**Indicator (a).** The Virginia Department of Correction has developed an agency-wide Policy on efforts to ensure compliance with the Prison Rape Elimination Act. Policy OP 038.3 Prison Rape Elimination Act (PREA) was written to address the various requirements of the standards. The 18-page policy sets forth a zero-tolerance expectation for any sexual activity. Page 3 of the policy states. “The DOC has a Zero Tolerance Policy that strictly prohibits any fraternization, sexual misconduct by staff, contractors, or volunteers with offenders, or between offenders as defined in this operating procedure.” The policy goes on pages 3 and 4 to describe prohibited behaviors. The policy sets forth the requirements of agency administrators and facility administrators to ensure PREA compliance. Pages 4-7 cover different aspects of the Virginia DOC prevention efforts. Pages 8-9 of OP 038.3 covers the detection efforts while pages 10-12 cover responding to issues of sexual harassment or sexual abuse. Policy OP 135.2 Rules of Conduct Governing Employees Relationships with Offenders further states the Virginia DOC’s zero-tolerance position toward sexual misconduct.

The Facility staff showed knowledge consistent with training materials about their role in preventing, detecting, and responding to sexual assault claims. Also, posters throughout the facility remind inmates and staff of the Zero Tolerance expectation. Random inmates reported an environment free from sexual misconduct.

**Indicator (b).** Sussex State Prison I is one of 41 Adult Correctional facilities run by the Virginia Department of Corrections. PREA policy OP 038.3 Prison Rape Elimination Act (PREA) defines the role of the PREA Coordinator (pages 3) and states the PREA/ADA Supervisor will serve in this capacity. The policy defines the PREA Coordinator’s “authority to develop, implement, and oversee DOC efforts to comply with the Prison Rape Elimination Act (PREA) National Standards in all DOC facilities.” Supporting documents show the PREA Coordinator assignment, the role within the agency administrative chart. The PREA Coordinator is supported by a staff of 4 PREA Analysts who cover three regions and field statewide calls from the PREA hotline. Interviews with the PREA Coordinator confirm she has sufficient time, access to key correctional administrators, including the Director of the Department of Corrections, to influence policy and resources to ensure PREA safe environments in the Virginia DOC system. The PREA Analyst working for the PREA Coordinator ensures that facilities maintain compliance through regular monitoring visits and provided technical assistance and training when needed.

**Indicator (c)** The OP 038.3 Prison Rape Elimination Act (PREA) defines the role of the PREA Compliance Manager (pages 3). The policy requires the Warden to assign an individual to coordinate the facility’s efforts to comply with PREA. The Policy states the responsibility within the facility to coordinate the facility’s efforts to prevent, detect, and respond to allegations of sexual misconduct. The Auditor was provided a facility flow chart showing the relationship between the PREA Compliance Manager role and Sussex I State Prison’s leadership. Supporting documentation also includes a memo from the state’s original PREA Coordinator defining the roles and expectations of a PREA Compliance Manager. Interviews with the PREA Coordinator, PREA Analyst and Warden confirm the PREA Compliance Manager has sufficient access to key correctional administrators including the Warden to influence policy and resources to ensure PREA safe environment at Sussex State Prison I. Inmates were all aware of the role of the PREA Compliance Manager, and able to identify her and support that she is accessible to them.

**Compliance Determination:**

The Virginia Department of Corrections has policies that define the steps taken to prevent, detect, and respond to incidents of sexual abuse and sexual harassment. The policy OP 038.3 Prison Rape Elimination Act (PREA) and OP 135.2 Rules of Conduct Governing Employees Relationships with Offenders define the Zero Tolerance expectation. The policies define the roles of the state PREA



Coordinator and the facility PREA Compliance Manager as well as prohibited behaviors for all staff, volunteers, contractors, and inmates. Interviews with the Agency PREA Coordinator Rose Durbin and Sussex State Prison PREA Compliance Manager, Angela Wethington confirm their roles to ensure PREA compliance is maintained. Both individuals believe they have the capacity in their jobs to advocate for a policy or procedural changes needed to support inmate safety. This was confirmed with Warden Gilmore and the Director of Department of Corrections for Virginia DOC. Interviews with the Director and the Warden support compliance with all standard expectations. Policies reviewed by the Auditor in completing the Audit process not only described in depth the agency's expectation to protect, detect and respond to sexual misconduct but clearly defines the roles of the state PREA Coordinator and the facility's PREA Compliance Managers. The Policy also addresses prohibited behaviors and sanctions for any forms of sexual misconduct. Inmates, informal interviews, and spoken to during the tour, confirmed that sexual misconduct is addressed, and they had knowledge of resources available if a concern arises. The facility has been able to maintain a safe environment where inmates supported violent sexual assault is not a concern. Random staff interviews further support a zero-tolerance culture. Individual staff interviewed supported a well-trained compliment who is aware of their duties in promoting a sexually safe environment. The last element in supporting compliance is the observed relationship between the central office staff and the facility leadership. It was clear that the individuals have regular contact and discussions on PREA and individual inmates. The Auditor finds the standard has been exceeded based on two strong relationships. 1) The Auditor believes the relationship between the facility administration and the PREA Coordinator and her staff are supportive of developing and maintaining a PREA safe environment. The Auditor observed a familiarity and support consistent with agencies a quarter the size of the Virginia DOC 2) Similarly, the Auditor found the inmates stated trust of the PREA Compliance Manager to be a critical building block of maintaining a safe environment that supports reporting and investigation of sexual misconduct. The Auditor also considered the agency's policies in determining the exceeds standard designation. The Virginia DOC has intermingled and cross-referenced PREA requirements into multiple policies to ensure, depending on what policy a staff uses as a reference, they are afforded the same information supporting preventing, detecting, responding to incidents of sexual misconduct.

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

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

#### 115.12 (a)

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

#### 115.12 (b)

- Does any new contract or contract renewal signed on or after August 20, 2012, provide for agency contract monitoring to ensure that the contractor is complying with the PREA standards? (N/A if the agency does not contract with private agencies or other entities for the confinement

of inmates OR the response to 115.12(a)-1 is "NO".)  Yes  No  NA

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

#### **Policies and written/electronic documentation reviewed.**

OP 038.3 Prison Rape Elimination Act (PREA)  
OP 260.1 Procurement of Goods  
VA DOC Website  
VA Contract with the GEO Group

#### **Individuals interviewed/ observations.**

Interview with PREA Coordinator (PC)  
Interview with Contract Manager

#### **Summary Determination**

**Indicator a)** The pre-audit report indicated the Department of Corrections has one contracted facility. The Auditor was provided documentation of the 1500 bed contracted facility in Lawrenceville, Virginia. The Virginia Department of Corrections addresses the requirements of this indicator in two policies. The agency's PREA policy OP 038.3- PREA (page 4) states, "contract for the confinement of DOC offenders must include in any new contract or contract renewal the entity's obligation to adopt and comply with the PREA standards". Policy OP 260.1- Procurement of Goods (page 10) states, "All contracts for the confinement of DOC offenders must include in any new contract or contract renewal the entity's obligation to adopt and comply with the PREA standards.". It goes on to define the guidelines for emergency contracting of a facility that is not compliant with PREA. "Only in emergency circumstances in which all reasonable attempts to find a private agency or other entity in compliance with the PREA standards have failed, will the DOC enter into a contract with any entity that fails to comply with these standards. In such a case, all unsuccessful attempts to find an entity in compliance with standards must be documented." The Auditor was provided with several documents including contracts with the GEO Group and annual renewals of the contract. Article 4 (page 11) of the 2018 contract with the GEO Group requires compliance with American Correctional Association, PREA standards, and state regulations. The Contract Monitor confirmed the process for contracting with the

GEO group. There were no inmates sent from Sussex State Prison I to the Lawrenceville facility in the past year.

**Indicator b)** The Auditor found language in the two policies mentioned in indicator a). The policies state “Any new contract or contract renewal must provide for agency contract monitoring to ensure that the contractor is complying with the PREA standards.” The Auditor learned from the GEO website and documents provided that the facility in Lawrenceville has been under contract since 2003. The Auditor also reviewed The Virginia Department of Corrections website which shows the facility in Lawrenceville has undergone two PREA audits (2016, 2019). The most recent PREA Audit of Lawrenceville Correctional Center occurred in March of 2019. The Auditor requested additional documentation to support ongoing monitoring of the facility. The Contract Monitor reports that the facility is normally visited quarterly by the PREA Analyst for that region and that a VA DOC employee works on-site to ensure routine communication of issues between the DOC and GEO. The PREA Analyst and PREA Coordinator described the monitoring process. The Lawrenceville Correctional Center also is required to notify the PREA/ADA unit of all complaints.

**Compliance Determination:**

The Auditor reviewed agency policies, contracts, and contract renewals with the GEO Group. Agency contracts and renewals for the confinement of VA DOC offenders included the requirements of this standard and require monitoring by agency personnel. The Auditor determined the Virginia Department of Corrections meets the requirements of this standard based on the documents reviewed and information from interviews with the Contract Manager, PREA Coordinator, and PREA Analyst.

## Standard 115.13: Supervision and monitoring

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

#### 115.13 (a)

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

determining the need for video monitoring?  Yes  No

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

#### 115.13 (b)

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

#### 115.13 (c)

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

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

### 115.13 (d)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

#### **Policies and written/electronic documentation reviewed.**

OP 401.1 the Development and Maintenance of Post Orders  
 OP 401.2 Security Staffing  
 Staff Duty Rosters  
 Sussex State Prison Staffing plan  
 Annual Review  
 Logs and Video of Supervisor Tours

#### **Individuals interviewed/ observations.**

Interview with PREA Coordinator  
 Interview with PREA Compliance Manager

Interview with Warden.  
Interview with Staff  
Interviews with Inmates

## Summary Determination

**Indicator a).** Policy 401.2 Security Staffing (page 8) covers the language of this indicator. The policy uses the standard language to describe the requirements of the development and on-going reviews of staffing needs at Virginia's Department of Corrections facilities. The policy language includes the 11 elements listed in indicator a). The Sussex I State Prison has provided a copy of the facility's current staffing plan for 2020. The facility has provided documents including the narrative, schematics of the facility, and camera locations that support the elements of this standard. The facility is well covered with rapid eye cameras and PTZ zoom cameras. The facility is not under any legal judgment or been sighted by any state or federal oversight body. The Auditor made some suggestions on improving the documentation to add more information on support positions such as correctional case managers, mental health professionals, and the Unit Managers who routinely move through the units. Documentation should also account for the K-9 and Intel staff who tour the facility and have live camera access.

**Indicator b).** Interview with the Warden confirms the Sussex I State Prison has not gone under its approved minimal staffing in the past year. The facility can 'draft' overtime work from either voluntary or mandated staff to reach institutional minimums. There is a daily log for each shift documenting when staff calls out and who is replacing the post assignment. The Warden gets a report daily on the amount of overtime drafted daily and The Warden or Deputy Warden would be notified of any emergency where minimums would not be met. The Warden also confirms the ability to order in staff if needed. Supervisory staff also confirmed the ability to mandate staff if needed to maintain facility safety.

**Indicator c).** The 2020 annual review of the staffing plan was completed by the Warden, Assistant Warden, HR Manager, Chief of Housing and Programs, Operations Manager, the Institutional Investigator, and the PREA Compliance Manager. The report included information on staffing needs, adjustments made to the staffing plan, and identified areas for monitoring technology to improve institutional safety. The report is then forwarded to the agency PREA Coordinator, the Eastern Region PREA Analyst, and the Eastern Regional leadership of DOC. The Auditor confirmed with the Warden and the PREA Coordinator that concerns or requested resources would then be advocated through these individuals for allocation of funds.

**Indicator d).** Virginia DOC policy OP 401.1 Development and Maintenance of Post Orders addresses the concerns of this indicator. The Policy states "Post Orders will require that Lieutenants and above conduct and document unannounced rounds identify and deter staff sexual abuse and sexual harassment." "Unannounced rounds must be conducted intermittently during the month and must be conducted on both night and day shifts." The Policy also goes on to state "Staff assigned to any post are prohibited from alerting other employees that a supervisor is conducting rounds to identify and deter sexual abuse and sexual harassment." The Auditor was provided copies of documentation of unannounced rounds from 12 different locations in the institution including housing units, medical, work locations, etc. The Auditor picked 2 dates per month between April and Sept to review supervisory rounds and video evidence consistent with logbooks. The Auditor also confirmed the unannounced rounds through visual observation of logs in housing units and other locals in the prison during the tour. The Auditor interviewed housing officers, control officers, and supervisory staff to confirm that tours are unannounced.



**Compliance Determination:**

The Auditor determined the Sussex I State Prison meets the requirements of this standard. The Auditor concluded the facility has an adequate staffing plan to protect inmates from sexual abuse. The Auditor reviewed VA DOC policies that applied, the facility Staffing Plan, Unannounced Rounds, Duty Rosters, annual staffing plan review. The Auditor confirmed practice through observations on the tour, and interviews conducted with staff and inmates. The facility has seen some staff turnover in the past year and has had its staff impacted during the COVID-19 crisis but has maintained its minimums reportedly. The population has been reduced during the COVID-19 crisis and with a unit shut down for door replacement staffing can be concentrated. The Auditor's interviews with the Warden, PREA Compliance Manager, PREA Analyst, and PREA Coordinator confirmed a process is in place to communicate when an identified need is recognized. The Warden spoke about staffing, video, and supervision needs in the vocational training space scheduled to open later this year. Further supporting compliance is that the department actively recruits and approves hiring. The Auditor was able to see approximately 20 recruits for Sussex I and Sussex II at the neighboring training facility.

**Standard 115.14: Youthful inmates****All Yes/No Questions Must Be Answered by the Auditor to Complete the Report****115.14 (a)**

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

**115.14 (b)**

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

**115.14 (c)**

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

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

**Auditor Overall Compliance Determination**

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

**Instructions for Overall Compliance Determination Narrative**

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

**Policies and written/electronic documentation reviewed.**

OP 425.4 Management of Cell and Bed Assignment  
 Memo from Warden  
 Population report

**Individuals interviewed/ observations.**

Interview with PREA Compliance Manger  
 Interview with Random staff  
 Observation of Population on tour

**Summary Determination**

**Indicator a)** There are no Youthful inmates housed at Sussex State Prison I.

**Indicator b)** There are no Youthful Inmates housed at Sussex State Prison I.

**Indicator c)** There are no Youthful Inmates housed at Sussex State Prison I

**Compliance Determination:**

The Virginia Department of Corrections has a policy OP 425.4 Management of Cell and Bed Assignments that addresses the requirements of this standard. Though Youthful Inmates do not exist at Sussex State Prison the agency has policy language defining the requirements of sight and sound separation in the housing of Youthful Inmates from adult prisoners. The Policy also requires any time outside housing where Adult and Youthful Inmates may be in sight or sound of each other the Youthful inmate is required to be under the direct supervision of staff. Absent a Youthful Inmate the Auditor could only rely on policy language in determining compliance. The Auditor reviewed the population report and observed it on the tour to ensure no youthful inmates were in the current population.



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

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

#### 115.15 (a)

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

#### 115.15 (b)

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

#### 115.15 (c)

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

#### 115.15 (d)

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

#### 115.15 (e)

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

information as part of a broader medical examination conducted in private by a medical practitioner?  Yes  No

### 115.15 (f)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

#### **Policies and written/electronic documentation reviewed.**

OP 350.2 Training and Development  
OP 401.1 Development and Maintenance of Post Orders  
OP 401.2 Security Staffing  
OP 445.1 Employee, Visitor, and Offender Searches  
OP 720.2 Medical Screening, Classification & Levels of Care  
OP 801.1 Facility Physical Plant and Sanitation  
Search Training Materials  
Memo from Warden  
Transgender Inmate file

#### **Individuals interviewed/ observations.**

Interview with Warden  
Interview with Random Staff  
Interview with Random Inmates  
Interview with Transgender Inmates

#### **Summary Determination**

**Indicator a).** OP Policy 445.1, the agency's search policy, sets forth the requirements for body cavity searches. The agency policy requires if there is a belief that an inmate is concealing contraband the Regional Director be notified and that any probing of a body cavity is completed by a medical professional. The policy does require a security person to be present of the same gender as the inmate. The policy goes on to state that if the offender is transgender or Intersex the gender of the security staff person will be consistent with the individual approved Strip Search Deviation Request. The Warden reports there were no incidents of cross-gender body cavity searches. The Warden and PREA Compliance Manager report that all body cavity searches would be documented including the individual present and the justification for such actions. Policy OP 445.1 also references the required elements of the mandated incident report consistent with the Warden's stated expectations

**Indicator b).** The Sussex I State Prison does not house female inmates. The Agency policy allows for Transgender individuals to request the gender of the staff person completing a frisk search. Interviews with transgender females at Sussex I State Prison support there are no situations where access to activities or programming are denied for the lack of identified requested gender of staff who would frisk search them. The VA DOC permits female security staff to conduct cross-gender pat-down searches of male inmates.

**Indicator c).** Virginia DOC policy OP 445.1 (page16) covers the language of this indicator. The policy states in sections on frisk search, strip search, and body cavity searches that all cross-gender searches will be documented in an incident report consistent with OP 038.1 Reporting Serious or Unusual Incidents. There were no reported cross-gender searches at Sussex I State Prison, and as a result, there were no documents to review. Inmates and staff persons confirm that cross-gender searches do not occur.

**Indicator d).** Policy OP 801.1 (page 3) states "Facility procedures and practices shall enable offenders to shower, perform bodily functions, and change clothing without a nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks". Policy OP 401.2 describes as part of the housing unit supervision the same description as stated above as well as a requirement of opposite gender staff announcements. "Staff of the opposite gender must announce their presence when entering an offender housing unit and must document these announcements in the logbook." The Auditor confirmed through the random interviews with staff and inmates the practices of cross-gender announcements. Inmates say they may not always hear the notice because of the volume at times in the unit. During the tour, the Auditor saw a variety of staff announcements including announcements by the officer in the unit control office, the officer on the floor, or the female staff persons entering the space. The Auditor did a review with the Warden regarding a concern with the top height of the privacy barrier in the showers. It was agreed upon to raise the height of the door by adding material. The facility fabricated and installed extensions that would allow female officers to tour the unit, be able to determine who was in the shower but not allow for the inmate's midsection to be seen. The Deputy Warden provided photos of the modifications completed to the Auditor.

**Indicator e)** Two Virginia DOC policies address the requirements of this indicator. OP 720.2 and OP 445.1 require that Transgender individuals will not be strip-searched to determine one's genital status. The policy requires that if unknown the determination is made through interviews with the inmate or as part of a physical exam conducted by a medical practitioner. "If a transgender or intersex offender's genital status is unknown, a physical examination will not be conducted for the sole purpose of determining their genital status. This information may be determined during an interview, by reviewing medical records, or if, necessary, by learning this information as part of a broader medical examination

conducted in private”. The transgender inmate denies perceiving any strip search as having been done to determine genital status. Random staff interviews confirm the training on searches included the use of the back or edge of the hand when completing a cross-gender pat search. They were able to describe the search process including respectful communication and awareness of potential trauma histories.

**Compliance Determination:**

The Auditor confirmed through the interview process that staff had been appropriately trained to conduct cross-gender searches, respectful searches of transgender individuals, and make opposite gender announcements when entering offender living units. Inmate interviews confirmed the ability to shower, change clothing, and use the restroom without nonmedical staff of the opposite gender seeing them do so. The Auditor reviewed the agency’s policies and procedures, training documents, made observations during the tour, and interviewed staff and inmates in determining compliance with this standard. The Auditor also was able to speak with and review a transgender individual’s records to confirm the process for individualized determination of search preferences. Finally, the Auditor considered the modifications to the shower stalls, completed within days of the tour, to be indicative of the leadership’s efforts to comply with standard expectations.

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

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

**115.16 (a)**

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

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

#### 115.16 (b)

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

#### 115.16 (c)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

#### **Policies and written/electronic documentation reviewed.**

Policy – 038.3 Prison Rape Elimination Act (PREA)  
 PREA Brochure in English and Spanish  
 Interpretive Service Contracts (Propio and Purple)  
 Comprehensive Education Video  
 PREA info in Braille  
 Memo from Warden on Interpretive services

#### **Individuals interviewed/ observations made.**

Inmate education acknowledgment  
 Interviews with Staff  
 Interviews with Offenders  
 Observations of PREA Information posted

### Summary Determination

**Indicator a).** Sussex I State Prison has services in place to ensure disabled and Limited English Proficient Inmates have the appropriate understanding and access to services described in this standard. Policy OP 038.3 the PREA policy defines disabled and limited English proficiency in the same language of the standard. The policy ensures equal access to the facility’s efforts to protect, detect, and respond to incidents of sexual abuse and sexual harassment. The policy acknowledges the protections afforded under the American’s with Disabilities Act. Documents support that key members of the facility staff have undergone additional training on working with ADA populations and working with hearing-impaired individuals. All employees are informed of the at-risk populations described in this standard. The Director of the Department of Corrections spoke on the expectations of providing full access and protections to these at-risk populations. The PREA Coordinator also oversees the agency’s efforts to ensure compliance with ADA regulations. Interviews with targeted inmates and staff support there are services in place to ensure residence understand PREA and how to report a concern.

**Indicator b).** OP 038.3 states “Facility staff must take reasonable steps to ensure offenders who are limited English proficient, are afforded meaningful access to all aspects of the DOC’s efforts to prevent, detect, and respond to sexual abuse and sexual harassment to include providing interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary



specialized vocabulary.” The facility provided contracts with an agency that can provide interpretive services in over fifty languages in under a three-minute response time. The Auditor was also provided a secondary contract with an organization called Purple who can support inmates who use American Sign Language. The Auditor reviewed the documents to ensure they were current, and the facility provided records supporting the contracts have been in place predating the previous audit cycle. The Auditor was unable to speak with bilingual individuals as no individual lacked English speaking.

**Indicator c).** Random staff interviewed knew it was inappropriate to use one inmate to interpret for another. Staff knew it could only be done in the most extreme situations. The agency PREA policy (OP 038.30 (page 7) states “ Facility staff cannot rely on offender interpreters, offender readers, or other types of offender assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the offender’s safety, the performance of first-response duties under, or the investigation of the offender’s allegations. Video Remote Interpreting (VRI) should be utilized to effectively communicate with deaf offenders when American Sign Language interpreters are not available on-site.” There has been no incident in which an inmate interpreter has been used to address any PREA related concern in this Audit cycle.

### **Compliance Determination:**

The State PREA Coordinator is also the head of the ADA compliance unit which further ensures PREA education and access to services for protected populations occur. The Auditor was able to see the documentation in English and Spanish the two most common languages in the Virginia DOC population. The Auditor was also able to confirm the use of Just Detention International’s video “PREA What you need to know” is used as part of the inmate education and is available in multiple languages. The Auditor was informed that there were no occasions in which interpretive services were needed. The Auditor spoke with individuals in the population who were bilingual but did not find any individuals with whom an interpretive service was needed. The Auditor also confirmed with individuals with a variety of disabilities on their ability to receive support if they did not understand PREA or the agency's efforts. Inmates support there is staff available to assist individuals who have hearing, emotional, or comprehension disabilities in addition to those with language barriers. Given the policy provided, the contracts in place, the staff and inmate knowledge of accessing services, and the statewide support the Auditor finds the standard expectations are being met.

## **Standard 115.17: Hiring and promotion decisions**

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

#### **115.17 (a)**

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

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

#### 115.17 (b)

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

#### 115.17 (c)

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

#### 115.17 (d)

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

#### 115.17 (e)

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

#### 115.17 (f)



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

#### 115.17 (g)

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

#### 115.17 (h)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

#### Policies and written/electronic documentation reviewed.

Policy OP 102.2 Recruitment Selection and Appointment  
 Policy OP 102.3 Background Investigation Program  
 Policy OP 102.7 Employment Records  
 Policy OP 135.1 Standards of Conduct  
 Policy OP 145.2 Employee Performance Management

## Policy OP 260.1 Procurement of Goods and Services

### **Individuals interviewed/ observations made.**

Interview with Human Resource Staff

Interview with Agency PREA Coordinator

Interview with Warden

### **Summary Determination**

**Indicator (a).** OP 102.2 Recruitment Selection and Appointment page 5 addresses the requirements of this indicator in the section on employee eligibility. The Policy strictly prohibits the employment or contracting the services of individuals who have engaged in, have been convicted of engaging in or attempting to engage in or administratively been adjudicated for sexual assault. OP 260.1 utilizes the same language requirements for contracted employees. Interviews with HR staff support the process of screening all applicants for employment at the Sussex I State Prison including employees of the health care service provider Armor. Any approved volunteer undergoes the same screening process and the same acknowledgment form.

The employee application process requires potential candidates to confirm that they have not engaged in any form of the sexual misconduct described in indicator (a) including sexual assault in a prison or jail, any attempt to engage in sexual activity by force in the community or through coercion or engagement with an individual who could not consent. The Auditor confirmed the questions are asked at the time of hire and promotional periods. In determining compliance, the Auditor reviewed 24 files, including 6 hired in the last year. The Virginia DOC has had the PREA questions as part of the employment applications since 2014. The Auditor was able to see in the HR files reviewed where the questions were asked of employees hired before that date in their annual reviews.

**Indicator (b).** The Virginia Department of Corrections subcontracts its medical and mental health services through Armor Correctional Health Services of Miami FL. The Virginia DOC policy prohibits the employment or contracting of individuals who may have engaged in behaviors described in indicator (a). The Auditor confirmed with the HR staff person that the Virginia DOC does perform the criminal background checks on these individuals. The Auditor reviewed 5 contracted employees as part of this standards review process. The Human Resource staff confirmed that all individuals who are recommended for hire or promotion who have potential concerning issues in their work or personal history would be brought to the Warden's attention before any offer of a position in the institution. The DOC prescreening process for its employees would seek to find information on criminal offenses and the agency does reach out to former employers for other behaviors that might have caused discipline.

**Indicator (c).** The Virginia Department of Corrections completes criminal background checks on all employees. The Agency policy OP102.3 Background Investigation Program covers the requirements of this standard. In discussions with the Human Resources staff and the Agency PREA Coordinator, these are consistently done both as a pre-employment and at the required 5-year intervals in indicator (e). The Check includes a criminal background check and prior institutional checks. The Virginia law does not allow for the record to be maintained as part of the employee's file and requires reportedly the document to be destroyed after use. The Human Resources staff confirmed the process and was able to show the auditor how the process is completed. The Auditor also was provided with an example of criminal background documents. The Auditor, PREA Coordinator, and the Human Resources staff person discussed elements that are required to be maintained and ways to improve the documentation of the completion of the checks for future audits.

**Indicator (d).** SISP as stated in Indicator (a) completes criminal background checks on all Armor employees and any approved volunteers. Interviews with contracted staff and volunteers support they were required to pass a background check before being allowed into the facility.

**Indicator (e).** Discussions with the Human resources staff support that staff have criminal background checks at the time of hire and at least every 5 years thereafter. As noted in indicator c) Virginia does not allow criminal record checks (VICN) to be maintained in their human resources file. The policy sets forth the "The Human Resource Officer shall document in the Access Employee Database that the criminal records check (VCIN) was conducted." The Human Resources staff confirmed the process is done and how if new charges were found the steps taken to notify the Warden. The Auditor requested and received additional documentation to support the process is being completed. The Warden has ordered an additional documentation process to more readily support an ongoing practice. The Auditor also spoke with the PREA Coordinator on options to further support compliance.

**Indicator (f).** As noted in Indicator (a) all SISP employees are asked to complete the Employee Application which includes questions required in indicator a). The employees after hire also complete a form titled PREA Mandatory Sexual Misconduct Disclosure. Staff is asked the aforementioned questions as well as create a continuing responsibility to disclose such misconduct. The form states, "All answers and statements are true incomplete to the best of my knowledge. By signing this form, I am acknowledging that the information provided above is accurate and complete and that I have a continuing affirmative duty to disclose any such misconduct." The Virginia DOC had all existing employees complete the form.

**Indicator (g).** Policy OP 135.1 Standard of Conduct states " Material omissions regarding convictions or charges of sexual abuse or sexual harassment in an institutional setting, sexual activity by force or coercion (or if the victim could not or did not consent), civil or administrative adjudication for sexual activity by force shall be grounds for termination." Contained also in the PREA Employee Questionnaire is the following passage: "any material omissions regarding such misconduct, or provision of materially false information, shall be grounds for disqualification from employment or termination." The PREA Mandatory Sexual Misconduct Form and the employment applications reviewed in staff files confirm the process is routinely done.

**Indicator (h).** The Virginia DOC allows for the agency, with proper releases of information, to disclose to other institutions any PREA related concerns. Interviews with Human Resources staff confirm they make requests of both internal and outside employers when hiring, The Auditor was provided with three recent examples of the request made or received and the facility's response. The letters to the requesting facility are signed by the facility PREA Compliance Manager. The Human Resource staff member understood the importance of attempting to obtain information from previous institutional employers.

### **Compliance Determination:**

The Virginia Department of Corrections has a policy in place to address the requirements of the standard including the completion of background checks, and pre-employment screening that supports the agency's efforts to screen out predatory candidates from employment. The Auditor interviewed the Human Resources staff at the SISP to oversee the hiring. The agency has all staff and contractors undergo criminal background checks. The Human Resource staff reports she works closely with facility management to ensure the line of communication is maintained. The Virginia DOC has implemented forms in policy to document staff understand the requirements related to the various indicators in this standard. The agency provided timely additional documentation when requested to support compliance.

The Virginia DOC has several policies that utilize the standard language to address the requirements. The Auditor was also able to review information from a total of 39 files of current and former staff, contractors, and volunteers. Interviews with Human Resource staff and PREA Coordinator further confirmed the process in place to ensure individuals who have engaged in sexual misconduct are not employed at Sussex I State Prison or able to get a job at another correctional institution if that facility request information. As outlined above, there were several factors used by the Auditor in determining compliance.

## Standard 115.18: Upgrades to facilities and technologies

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

#### 115.18 (a)

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

#### 115.18 (b)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

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

**Policies and written/electronic documentation reviewed.**

OP 801.1 Facility Physical Plant and Sanitation  
Memo from Warden  
Photos of New Mirror positions  
Blueprints of education addition  
Annual Staffing Plan

**Individuals interviewed/ observations made.**

Interview  
Interview with PREA Compliance Manger  
Interview with Warden  
Observation on tour of Construction  
Observation of New mirror and proposed Camera Positions

**Summary Determination**

**Indicator a).** The concerns of Indicator a) are addressed in policy OP 801.1 which states “ The effect of the facility’s design, acquisition, expansion, or modification on the facility’s ability to protect the offender from sexual abuse shall be taken into consideration when designing or acquiring any new facility and in planning any substantial expansion or modification to an existing facility.”. The Auditor was able to discuss with the Warden, The PREA Coordinator, and The PREA Compliance Manager how PREA safety concerns are addressed. In the new educational space, the Warden described how if safety issues arise, those issues are tackled and the communication between the facility level and the Virginia DOC central office. The Auditor was able to tour the construction area. The Warden pointed out camera positions and how staff will be positioned to maintain optimum supervision. The new space includes large open classrooms with large windows into the classrooms from a central hallway. The facility will be completed later this year. The 4<sup>th</sup> Cellblock is being modified with new housing doors to replace the doors original to the institution that will improve both inmate and staff safety. Once the unit is completed, the population will be moved so other cellblocks can also be modified.

**Indicator b).** The Sussex State Prison has added 10 additional mirrors since the last PREA Audit that were identified by the facility administration to reduce risks of assault and improve inmate supervision. Many of these locations were in the work locations. OP 801.1 states “For new installations or updates to existing video monitoring systems, electronic surveillance systems or other monitoring technologies, the facility shall take into consideration how such technology may enhance their ability to protect offenders from sexual abuse.” The Auditor was able to discuss technology uses in the institution with the PREA Coordinator and the Warden. The Auditor was able to see from the tour how both existing monitoring in control rooms and proposed monitoring technology in the new space will aid in the supervision and safety of inmates. The Warden reports the camera upgrades are ongoing to add improved video surveillance of the prison.

**Compliance Determination:**

Agency policy 801.1 supports the Department of Corrections has in place a system to take into consideration inmate sexual safety in designing new spaces, modifying existing spaces, or adding monitoring technology. The Director of the Department of Corrections supports the agency considers how physical plant modifications and the addition of monitoring technology can improve safety in

Virginia's DOC facilities. The Auditor took into consideration the policy, the description of things considered in the design of the new education/ vocation space, and how monitoring issues identified have been resolved in determining compliance. The Auditor also considered the interviews with the Warden, PREA Coordinator, PREA Analyst, and PREA Compliance Manager in determining compliance. The interviews supported that there are strong avenues of communication between facility and agency administration to ensure appropriate resources can be applied to resolve identified concerns.

## RESPONSIVE PLANNING

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

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

#### 115.21 (a)

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

#### 115.21 (b)

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

#### 115.21 (c)

- Does the agency offer all victims of sexual abuse access to forensic medical examinations, whether on-site or at an outside facility, without financial cost, where evidentiarily or medically appropriate?  Yes  No
- Are such examinations performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) where possible?  Yes  No



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

#### 115.21 (d)

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

#### 115.21 (e)

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

#### 115.21 (f)

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

#### 115.21 (g)

- Auditor is not required to audit this provision.

#### 115.21 (h)

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

### Auditor Overall Compliance Determination



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

### Instructions for Overall Compliance Determination Narrative

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

#### **Policies and written/electronic documentation reviewed.**

Policy – 030.1 Evidence Collection and Preservation  
 Policy – 030.4 Special Investigations Unit  
 Policy – 038.3 PREA  
 Policy – 720.7 Emergency Medical Equipment and Care  
 Policy – 730.2 MHS Screening Assessment and Classification  
 Virginia Forensic Nurse Examiner  
 Virginia Department of Criminal Justice Services Website  
 MOU with Action Alliance  
 Incident Reports files of Sexual Assault Investigation  
 IAFN Website

#### **Individuals interviewed/ observations made.**

Interview with PREA Compliance Manger  
 Interview with Random staff  
 Interview with SANE/SAFE  
 Interviews with Medical and Mental Health staff  
 Interview with Rape Crisis agency staff

#### **Summary Determination**

**Indicator a).** Virginia DOC policy 030.4 Special Investigation Unit on pages 10 and 11 set forth the requirement that all allegations of sexual abuse be investigated and that the investigation will be completed using a uniform practice. Policy 030.1 Evidence Collection and Preservation also define steps to be taken by investigators to protect evidence, chain of command and crime scene integrity. This policy also addresses video evidence and storage. The Virginia DOC completes all criminal and administrative investigations utilizing trained staff in the facility investigative unit or SIU (Special Investigation Unit) officer who completes criminal Investigations. The SIU staff are law enforcement staff in the state of Virginia with full arrest authority. Interview with SIU Investigator, PREA Analyst, and Intelligence Unit Officer confirms the training provided so all DOC investigators ensure a consistent approach to ensure the likelihood of obtaining physical evidence. Random staff were able to describe in a first responder situation the steps to protect evidence until it can be properly obtained by the investigator or a SANE.

**Indicator b).** The Investigation Unit Policy also addresses the requirement of this indicator. The Auditor confirmed with the Investigator, the nurse in charge of, and Sexual Assault Examinations at the hospital on the protocol used for Sexual Assault Examinations. The SIU Investigator would not collect evidence as part of the forensic exam but is trained in working with victims of abuse and preserving crime scene evidence. The Hospital staff confirm they use the protocols approved through the International Association of Forensic Nursing. A review of the Website confirms the use of the protocol the National Protocol Sexual Assault Medical Forensic exams (2013) Adolescent (2016).

**Indicator c).** All victims of sexual abuse at Sussex State Prison would be taken to Virginia Commonwealth University Medical Center in Richmond approximately 45 miles away. Interview with hospital staff confirmed the staff includes trained nurses in completing forensic examinations of sexual abuse victims. It was confirmed consistent with DOC policy 720.7 Emergency Medical Equipment and Care (page 8) that there is no cost for the examination. The Auditor was able to see in investigative files of sexual abuse cases where the victim was sent out for a forensic examination including at least two cases in the past year. Inmate Victim confirmed he was offered forensic examinations and there were no costs associated or other conditional requirements to obtain the exam.

**Indicator d).** Sussex State Prison has access to rape crisis agency staff through a Memorandum of Understanding with Action Alliance. The Virginia Department of Corrections has had an ongoing relationship dating back to 2014 with Action Alliance. Action Alliance is the umbrella organization for state domestic and sexual abuse agencies. The Auditor was provided the original agreement and all subsequent renewal for services. In interviews with Action Alliance staff, the Auditor was able to confirm the relationship between the agencies. The Auditor suggested ways to build resources with the local rape crisis provider. Visitation by outside organizations has been limited due to the COVID-19 crisis.

**Indicator e).** Sussex I State Prison has two policies that address the requirements of this indicator 038.3 PREA (page 13) and 730.2 MHS Screening and Assessment (page 8). Interview with SANE nurses, the Action Alliance representative, and the facility PREA Compliance Manager confirms the ability to support the inmate during an exam, a criminal investigation interview, or to provide ongoing support to victims. Interview with the Investigator confirms that a rape crisis support advocate is routinely offered to inmates. The Auditor also found the description of services in the MOU between VA-DOC and Action Alliance confirming supporting inmates at forensic exams or investigative interviews. The Representative of Action Alliance confirmed that supportive counseling would include a referral if the inmate was leaving Sussex to another part of the state.

**Indicator f).** The indicator is NA. Virginia Department of Corrections and Sussex State Prison have trained individuals who would be responsible for completing criminal and administrative investigations.

**Indicator g).** The Auditor is not required to audit this provision

**Indicator h).** The indicator is NA. The Virginia Department of Corrections has entered into an MOU with Action Alliance to provide support to victims of sexual misconduct at Sussex State Prison I

### **Compliance Determination:**

The Auditor finds that the standard is compliant. The facility allows inmates access to victim advocates from a rape crisis center through a current MOU with Action Alliance. The facility provides inmate victims access to Sexual Assault Nurse Examiner at no cost at the Virginia Commonwealth University Medical Center. The Auditor reviewed the agency's policies and procedures, Memorandum of

Understanding, investigative reports, SANE examination report. The Auditor interviewed the Sussex State Prison Investigator, hospital staff, and Action Alliance staff, and an inmate victim to further determine if the facility meets the requirements of this standard.

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

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

#### 115.22 (a)

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

#### 115.22 (b)

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

#### 115.22 (c)

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

#### 115.22 (d)

- Auditor is not required to audit this provision.

#### 115.22 (e)

- Auditor is not required to audit this provision.

### Auditor Overall Compliance Determination

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

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

### Instructions for Overall Compliance Determination Narrative

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

#### **Policies and written/electronic documentation reviewed.**

Policy – 030.4 Special Investigation Unit  
Policy – 038.3 Prison Rape Elimination Act (PREA)  
Agency Website  
Investigative Reports of Sexual Abuse and Sexual Harassment Allegations  
Virginia law- 15.2-1704. Powers and duties of the police force.

#### **Individuals interviewed/ observations.**

Interview with Director  
Interview with Warden  
Interview with Investigators  
Interview with Inmates who made allegations

#### **Summary determination.**

**Indicator a).** The Auditor was provided with information on all sexual assault and sexual harassment claims made in the past year. Policy 030.4 Special Investigations Unit (page 10) requires 'the Unit Managers to ensure administrative or criminal investigations occur on all allegations of sexual assault or sexual harassment.' The Sussex State Prison has investigated over 64 allegations in the past year. The investigations reviewed by the Auditor included cases reported by inmates to staff, through the grievance process, and through the hotline and can include third party referrals. Interviews with the DOC Director and the Warden confirmed the expectation that all allegations be thoroughly investigated. The Warden discussed how he reviews these cases to ensure the reports have been completed and if related concerns have been identified.

**Indicator b).** Page 3 of Policy OP 030.4 Special Investigation Unit (SIU) sets forth the obligation that all cases of sexual assault and sexual harassment be investigated. The policy confirms the authority of SIU staff as having full police authority. The Auditor confirmed the policy is on the VA DOC website, while also reviewing state law in Virginia 15.2-1704 which defines the powers of police. Interview with the SIU agent confirmed the powers of arrest and authority to investigate crime in the facility including the ability to continue the investigation even if the alleged perpetrator or victim has left employment or custody of the institution.

**Indicator c).** N/A - The Virginia Department of Corrections is responsible for Criminal Investigations at Sussex I State Prison.

**Indicator d).** N/A - The Auditor is not required to review this provision.

**Indicator e).** N/A - The Auditor is not required to review this provision.

**Compliance Determination:** The documents reviewed by the Auditor confirm the authority of the DOC investigators to investigate sexual abuse and sexual harassment allegations. The Auditor was able to confirm with inmates that allegations are investigated even if they were not in agreement with the outcome. The facility was able to document a wide variety of cases for the Auditor to review including both sexual harassment and sexual abuse cases. The results included cases substantiated, unsubstantiated, and unfounded. The volume of cases provided support there are appropriate resources to complete them in a timely fashion. The Auditor also took into consideration interviews with the DOC Director, the SIU investigator, and the Warden to confirm all allegations of sexual assault and sexual harassment are investigated.

## TRAINING AND EDUCATION

### Standard 115.31: Employee training

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

#### 115.31 (a)

- Does the agency train all employees who may have contact with inmates on its zero-tolerance policy for sexual abuse and sexual harassment?  Yes  No
- Does the agency train all employees who may have contact with inmates on how to fulfill their responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures?  Yes  No
- Does the agency train all employees who may have contact with inmates on inmates' right to be free from sexual abuse and sexual harassment  Yes  No
- Does the agency train all employees who may have contact with inmates on the right of inmates and employees to be free from retaliation for reporting sexual abuse and sexual harassment?  Yes  No
- Does the agency train all employees who may have contact with inmates on the dynamics of sexual abuse and sexual harassment in confinement?  Yes  No
- Does the agency train all employees who may have contact with inmates on the common reactions of sexual abuse and sexual harassment victims?  Yes  No
- Does the agency train all employees who may have contact with inmates on how to detect and respond to signs of threatened and actual sexual abuse?  Yes  No

- Does the agency train all employees who may have contact with inmates on how to avoid inappropriate relationships with inmates?  Yes  No
- Does the agency train all employees who may have contact with inmates on how to communicate effectively and professionally with inmates, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming inmates?  Yes  No
- Does the agency train all employees who may have contact with inmates on how to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities?  Yes  No

#### 115.31 (b)

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

#### 115.31 (c)

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

#### 115.31 (d)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative



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

**Policies and written/electronic documentation reviewed.**

Policy 102.6 Staff Orientation  
Policy 350.2 Training and Development  
Sussex I State Prison staff training records  
Training Curriculums, outlines, and exams  
PREA/ADA monthly newsletters

**Individuals interviewed/ observations made.**

Training Captain  
PREA Analyst  
Random Staff

**Summary determination.**

**Indicator a).** The Auditor reviewed the training materials used to educate employees when hired and during annual refreshers. The training materials reviewed contained all 10 required elements of this indicator. Employees are trained and random staff interviews support an understanding of the agency's zero-tolerance policy toward sexual misconduct. Staff are told "Any behavior of a sexual nature between employees and offenders is prohibited. Employees are subject to a Group III offense under Operating Procedure 135.1 *Standards of Conduct* and may be prosecuted under the Code of Virginia." The Random staff were able to give examples of what they do in their daily jobs that help in protecting, detecting, and responding to incidents of sexual misconduct. The staff reported awareness of the inmates' and staff's rights to be able to report a concern without fear of retaliation. Staff were aware of individuals at greater risk and the symptoms they learned in the training of individuals who might be victims of abuse. Interviewed staff provided examples of different reasons sexual violence may occur in an institutional setting. A portion of the materials goes over staff standards of conduct, avoiding fraternization with inmates, and the mandatory responsibility to report individuals who violate the policy. Staff also were able to discuss what they learned about working with LGBTI inmates. Staff knew transgender and intersex inmates have a search procedure and using the preferred pronouns when speaking with the inmate. The trainings, according to staff, are usually offered in a classroom setting both in pre-service and annual training. Due to COVID-19, the 2020 annual PREA in service was offered on-line. The staff are given updates as policies are adjusted and the DOC's PREA/ADA unit puts out a newsletter monthly that refreshes staff on key issues in compliance. Policies on Staff Orientation (102.6) and Training and Development (350.2) both cover the elements of the standard.

**Indicator b).** The training materials are developed for statewide use, as such its curriculum addresses working with male and female victims of abuse. Sussex State Prison has not had a transfer of any employee who had worked in a female-only environment in this audit cycle. Policy 102.6 (page 4) language reinforces the DOC's expectation of gender-specific training "Such training shall be tailored to the gender of the offenders at the employee's facility. The employee shall receive additional training if the employee is reassigned from a facility that houses only male offenders to a facility that houses only female offenders, or vice versa."



**Indicator c).** The Virginia DOC trains individuals on an annual basis in PREA. Training records confirm information received through random staff interviews and informal questions the Auditor asked of staff during the tour. As noted, the PREA Analyst and the Training Captain confirmed that COVID-19 has resulted in more online education. Normally annual training is completed in a classroom setting but in 2020 much of the refreshers had moved to virtual settings. New employees still receive classroom training.

**Indicator d).** The training records reviewed by the Auditor confirmed that staff signs an acknowledgment form that they understand the content of the training. The Auditor also was provided with each employee's test. The training supervisor reports that all employees must receive a 100% score or must retake the questions the employee got wrong. This is done to ensure a full understanding of the staff expectations in promoting a zero-tolerance culture and knowing how to prevent, detect, and respond to sexual harassment and sexual abuse claims. The Facility reports 278 staff completed PREA refreshers in the last year and 78 new employees have undergone PREA training.

### **Compliance Determination:**

The Auditor has determined the facility has appropriately trained its staff in the areas required in this standard. Facility staff were well educated in the training topics mandated in the standard by being able to give examples to the Auditor questions related to the 10 required training elements. The Auditor reviewed facility policies and procedures, training curriculums, materials, training rosters, and staff exams. In addition to training its staff, it also requires them to pass a test. The Auditor reviewed 24 current employee training records when onsite. The facility provides training more often than the requirements of this standard as it trains staff annually. The PREA/ADA unit further supports ongoing training through the publication of a monthly newsletter that reinforces PREA topics and training modules. The Training Supervisor also gave a sample of a wallet card that provides information on what to do as a first responder. The Auditor determined compliance based on staff have retained the knowledge received from training, training materials, interview with the Sussex State Prison Training Supervisor, and staff training records. The Sussex I State Prison has been able to provide ongoing training to its staff during the COVID 19 crisis

## **Standard 115.32: Volunteer and contractor training**

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

#### **115.32 (a)**

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

#### **115.32 (b)**

- Have all volunteers and contractors who have contact with inmates been notified of the agency's zero-tolerance policy regarding sexual abuse and sexual harassment and informed how to report such incidents (the level and type of training provided to volunteers and

contractors shall be based on the services they provide and level of contact they have with inmates)?  Yes  No

### 115.32 (c)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

### Policies and written/electronic documentation reviewed.

OP 027.1 Volunteer Programming  
OP 038.3 Prison Rape Elimination Act  
OP 102.6 Staff Orientation  
OP 350.2 Training and Development  
Training overview slides  
PREA Brochure for Volunteers  
Contractor training List for 2019 and 2020  
Volunteer and Contractor acknowledgement forms

### Individuals interviewed/ observations made.

Contracted Employee Interviews  
Volunteer Interviews  
Discussions with Contractors on tour

### Summary determination.

**Indicator a).** The Virginia Department of Correction and the Sussex I State Prison have put in place a system to ensure all contractors and volunteers are trained regarding the inmates' rights to be free from sexual abuse, the agency's zero-tolerance policy for individuals who violate such, the potential criminal charges. Policy OP 350.2 states "Contractors and volunteers with the DOC who have contact (or could have contact) with offenders shall be trained on their responsibilities to prevent, detect, monitor and report allegations and incidents of sexual abuse and sexual harassment of offenders and probationers. (§115.32, §115.232)

- i. The level and type of training provided to volunteers and contractors shall be based on the services they provide and level of contact they have with offenders, but all volunteers and contractors who have contact with offenders shall be notified of the agency's zero-tolerance policy regarding sexual abuse and sexual harassment and informed how to report such incidents.
- ii. The facility shall maintain documentation confirming that volunteers and contractors understand the training they have received.
- iii. See Operating Procedure 027.1, Volunteer Program, for guidance on volunteer training.
- iv. See Operating Procedure 160.1, Staff Orientation, for guidance on contractor training."

The Auditor was provided a sample of the information volunteers and contractors get on the Prison Rape Elimination Act. Contractors who provided direct service to inmates such as medical and mental health are provided more significant training than the individual who is at the facility to make repairs. In addition to the materials presented, the Auditor considered interviews with contracted staff and volunteers who all supported receiving training on the Prison Rape Elimination Act. The individuals spoken to understood and supported a zero-tolerance culture and each person knew how to report a concern. The Auditor interviewed contracted employees on-site in formal interviews and in discussions on the tour or moving about the facility. Due to the COVID-19 outbreak, the facility was closed to volunteer organizations, so the Auditor was provided contact information of individual volunteers to allow phone interviews. These interviews, consistent with those done on-site, supported a well-informed volunteer pool on the Prison Rape Elimination Act.

**Indicator b).** As noted in Indicator (a), the Virginia Department of Correction provides significant training to both its contracted and volunteer staff pools. The Auditor was able to confirm through the interview process that the individuals spoken with had a clear understanding of the zero-tolerance culture, how to avoid an inappropriate relationship with inmates, and how to report a concern. Contracted Employees such as medical and medical health staff receive the same annual training as the DOC staff. Individuals volunteering or contractors providing limited inmate contact services receive an orientation program that includes an overview of PREA.

**Indicator c).** The Auditor was able to review the training record of 9 contractors and volunteers in 2019 and 10 records in 2020. The individuals signed initial orientation forms when first allowed into the facility and those who provide ongoing services are found on training rosters.

#### **Compliance Determination:**

The Sussex I State Prison has provided a multi-level training approach to contracted employees and volunteers that is based on the level of contact with the inmates. Individuals with more direct and frequent contact receive the same training from the department on PREA and how to report a concern. The Medical and Mental Health staff also report receiving specialized training as noted in 115.35. Interviews, training materials, and records support there is a process to ensure all individuals who come to the facility are educated on the inmates' right to be free from sexual abuse, sexual harassment, and retaliation for reporting any such misconduct. The interviews also confirmed the individuals knew their requirement to report any knowledge or suspicion of such misconduct. The Auditor finds the SISP to be compliant with the expectations of this standard. The determination was based on the materials reviewed, policies in place, and formal and informal interviews completed.

## **Standard 115.33: Inmate education**

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

### 115.33 (a)

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

### 115.33 (b)

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

### 115.33 (c)

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

### 115.33 (d)

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

### 115.33 (e)

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

### 115.33 (f)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

#### **Policies and written/electronic documentation reviewed.**

Policy OP-383.3 Prison Rape Elimination Act.  
Policy OP-810.2 Transferred Offenders and Receiving Operations  
Zero Tolerance Postings  
Detainee Training Outline  
PREA Video  
Detainee acknowledgement Forms

#### **Individuals interviewed/ observations made.**

Interview with Intake Staff Person  
Interview with Unit case managers  
Interview with inmates  
Observation on tour of PREA Signage in two languages

**Indicator (a)** All inmates are provided information about PREA upon admission to SISP. The clients have often been exposed to PREA through the county jail system or other VA DOC facilities before their admission at SISP. At intake, inmates report being provided a description of PREA, and how to protect themselves, how to report a concern, and what services are available if someone has been a victim. The Auditor was explained the admission process during the tour including the information the intake officer goes over routinely related to PREA, the information provided in documents, and the

video. The Auditor was not able to observe an intake due to COVID-19 restrictions on admissions but was able to confirm with an inmate in the area they were provided information about PREA. In addition to written documentation about PREA that is reviewed at intake, all Inmates see a PREA educational Video.

**Indicator (b)** All inmates at SISF are provided with a review of the facility-specific PREA information with their caseworker in the first few days in the facility. Those who were not previously in a DOC facility get the video education in addition to the introduction to PREA at admission. This is then reviewed with the caseworker in the days after the admission. The education includes the Virginia Department of Corrections Zero Tolerance toward sexual abuse or sexual harassment. The 6-page training curriculum tells inmates how to protect themselves from sexual assault/sexual harassment, how to and why it's important to report a concern, the inmates' rights related to PREA, and their right to be free from retaliation if they make a report. They are given an understanding of the steps DOC will take to investigate and support individuals if an incident occurs. Random inmates confirmed education into PREA. Inmates confirm verbally in the interviews they have received education about PREA and how to report a concern. All 338 admissions held over 72-hours in the 12-month prior were reportedly completed on time. A review of 39 provided and spot-checked files, training documents, and inmate interviews support compliance with the indicator.

**Indicator (c)** All inmates at the Sussex I State Prison have received an education on PREA and how to report any concern. Inmate education is documented, and random inmates confirmed that PREA was addressed immediately upon transfer from their prior prison or jail. There are no inmates who were in the Sussex I State Prison before the PREA law implementation. Many random inmates pointed to signage in the units that educate inmates about PREA and others mentioned the PREA Brochure or the DOC video. Agency Policy OP-810.2 Transferred Offenders and Receiving Operations (page 4) requires "An offender received from another institution via transfer will be provided a copy of the appropriate Zero Tolerance for Sexual Abuse and Sexual Harassment brochure that includes the Sexual Assault Hotline number. "

**Indicator (d)** Education is available in multiple languages and forms from written to video to large print documents. Inmates support that they can go to staff if they need assistance in the comprehension of written or oral PREA education. The assistance is available to any individual who needs assistance including those with physical disabilities, cognitive limitations, or those who cannot read. Many inmates stated that PREA was not a concern, but they knew the information was available and stated some people could help including line officers, case managers, unit managers, the PREA Compliance Manager, or dial #55. The Auditor saw PREA Information in two languages during the tour.

**Indicator (e)** As noted in indicator (b), The Auditor reviewed 39 files supporting compliance with the documentation of PREA education. Records were reviewed for a random sampling of clients. This supports they have received PREA education. Agency policy takes the additional step to require if any audit of the client file does not have written proof of education the inmate is required to undergo reeducation immediately,

**Indicator (f)** Agency Policy OP-810.2 Transferred Offenders and Receiving Operations states "Each institution will ensure that key information is continuously and readily available or visible to offenders through posters, offender handbooks, or other written formats." Observations throughout the tour support there are materials available to inmates continuously. The information viewed included handbooks, posters, and other signage about PREA or resources such as the local rape crisis agency. The Auditor suggested periodic video refreshers be made available to inmates given the long-term nature of the institution.



### Compliance Determination

PREA is a term the inmates are familiar with at SISP. The Virginia Department of Corrections Policy OP 038.3 PREA-Prevention sets forth (on pages 4-5) the expectation of the timeliness of inmate education, manners in which education is delivered, and the requirement for materials for LEP and disabled inmate education. Inmates at SISP confirm they are educated on PREA and the zero-tolerance expectations as soon as they get to the facility. PREA information is reviewed with the inmate by the Intake Officer and they are provided an inmate handbook that contains PREA information. The information reviewed is signed by the inmate and placed in their case record. The facility has PREA educational materials available to inmates in the form of brochures and posters in addition to a brochure. The orientation process also includes the viewing of the Virginia Department of Corrections PREA video. This video is available in multiple languages. Inmates have access to documents that can be translated into multiple languages as needed.

On the tour, the Auditor saw posters informing inmates how to report PREA events or how to access advocate services. Inmates report they are given facility-specific PREA information within one day of admission. Inmates sign at admission acknowledging their PREA education. Interviews with inmates confirm they know how to report incidents if they were to occur. Inmates reported comfort using #55 to report a concern or filing a grievance if they were to experience or be witness to an incident of sexual abuse or harassment. During interviews with inmates, they expressed several ways to contact the administration or outside individuals if they did not have comfort in telling the line staff. Many of the inmates stated that PREA was not a concern at the SISP. They also reported they believed any complaint would be taken seriously and investigated. Inmates with disabilities confirm that if they had a need staff would assist in the understanding of materials.

Compliance determination considered the supporting educational documents, the inmates' answers about training, and their knowledge about facility specific steps for reporting a concern. Further supporting compliance is the Auditor's review of client records that showed their education, the inmate education training materials, and the videos used to educate.

## Standard 115.34: Specialized training: Investigations

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

#### 115.34 (a)

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

#### 115.34 (b)

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



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

### 115.34 (c)

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

### 115.34 (d)

- Auditor is not required to audit this provision.

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

### Policies and written/electronic documentation reviewed.

Policy OP 030.4 Special Investigations Unit  
 Policy OP 350.2 Training and Development  
 Training for Institutional Investigators (PowerPoint)  
 Investigation Matrix

SIU Investigator Training records

**Individuals interviewed/ observations made.**

Interview with SIU Staff

Interview with SISP Intel Officer

Interview with the Regional PREA Analyst

**Summary Determination**

**Indicator (a)** The Virginia Department of Corrections employs its own investigative body. The Department of Corrections employs Special Investigations Unit (SIU) Detectives are official Law Enforcement with full powers of arrest in the state of Virginia. The Virginia DOC employs a Detective who handles criminal investigations by region and who is required by policy OP 350.2 Training and Development, "Sexual abuse and sexual harassment investigations shall only be conducted by investigators who have received special training in sexual abuse investigations. In addition to the general PREA training provided to all employees, facility investigators shall receive specialized training in conducting sexual abuse investigations in confinement settings.

Specialized training shall include:

- i. Techniques for interviewing sexual abuse victims
- ii. Proper use of Miranda and Garrity warnings
- iii. Sexual abuse evidence collection in confinement settings
- iv. Criteria and evidence required to substantiate a case for administrative action or prosecution referral"

As such, DOC Detectives have received training in completing investigations consistent with the Virginia statutes and DOC policy. The Department of Corrections has a cadre of 21 SIU staff members trained on how to complete sexual assault investigations of the correctional setting. In addition to SIU, the facility's Intel Officers have also completed specialized training on investigating PREA allegations in the facility. The Intel Unit will handle allegations that are not criminal in nature. They will respond to all allegations to ensure in the case of a criminal act the scene and evidence is protected until the criminal investigator arrives.

**Indicator (b)** The Virginia Department of Corrections has two training resources to ensure staff understands how to complete sexual assault or harassment investigations in a correctional setting. The Agency utilizes both the National Institute of Corrections online course *PREA: Investigating Sexual Assault in a Confinement Setting* and agency developed course. The Agency course, reviewed by the Auditor in a 170-slide PowerPoint, contained all the relevant topics required in this standard. The interview with a trained investigator and an intel staff member confirmed the trainings covered how to communicate with a victim of sexual assault, the use of Miranda and Garrity Warnings, proper steps in the collection and preservation of evidence, and the factors in making a determination of substantiation for administrative action or prosecutorial referral.

**Indicator (c)** Training records were provided for onsite staff who complete investigations and for 21 staff from throughout the Department of Corrections who would complete criminal and administrative investigations at SISP including the investigator interviewed by the Auditor. Policy OP 030.4 Special Investigations Unit (page 10) states "The PREA Compliance Manager shall maintain documentation that the required specialized training in conducting sexual abuse investigations has been completed by the investigators."

**Indicator (d)** The Auditor is not required to review this indicator

**Compliance Determination:**

The Virginia Department of Corrections ensures that staff who complete investigations have received appropriate specialized training on investigating sexual assault in a correctional setting. The Investigator at SISP was previously a Police Officer and has been trained in completing investigations. Documents and interviews support that the facility's investigators are trained in the requirements of a PREA related investigation. Given the number of DOC trained PREA Investigators, the level of professional investigative training provided to the staff, and the interview with the facility's trained Investigator, the Auditor finds the facility meets the standard expectations. Samples of investigations were completed, and the training documents supported the Auditor's findings.

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

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

### 115.35 (a)

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

### 115.35 (b)

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

### 115.35 (c)

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

### 115.35 (d)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

#### **Policies and written/electronic documentation reviewed.**

Policy 102.6 Staff Orientation  
 Policy 350.2 Training and Development  
 Policy 701.1 Health Service Administration  
 Policy 720.7 Emergency Medical Equipment and Care  
 NIC Courses for Medical and Behavioral Health Staff on Working with Victims in Corrections  
 NIC Certificates  
 PREA Response Plan

#### **Individuals interviewed/ observations made.**

Medical Staff  
 Mental Health Staff  
 VCU Medical Center Staff

#### **Summary Determination**

**Indicator (a)** the Sussex I State Prison employs the services Armor, a private Correctional Medical and Mental Health Services Provider. The agency trains staff with the use of the National Institute of Corrections courses on PREA specific considerations from the medical and behavioral health staff. Included in the training materials was information that the training addressed signs and symptoms of abuse, communication with a victim, how to report an allegation, and how to preserve evidence. Interviews with nursing staff support awareness that they should not clean any injuries and only treat critical health concerns before transport to the hospital for a rape kit. Armor staff knew who to report PREA concerns to in the DOC and within their supervision chain. Supporting documentation considered included the facility’s PREA response plan.

**Indicator (b)** The staff do not complete a forensic exam. Discussions with the VCU Medical Center confirmed the availability to have trained nurses perform sexual assault exams.

**Indicator (c)** Documentation was provided to the Auditor for the Armor staff confirming the specialized training was completed. The Auditor reviewed the training materials and considered the staff's knowledge of the materials.

**Indicator (d)** A review of the training record and the interview with staff confirms that all Armor staff received the same training as the DOC employees annually as well as the training described in 115.32. DOC training records further support compliance. Policy 102.6 states "Medical and mental health care practitioners must also receive the training mandated for employees or contractors and volunteers depending upon the practitioner's status in the DOC."

**Conclusion:** Medical and Mental Health Staff at Virginia DOC facilities are employed by Armor Correctional Health Services. Medical and Mental Health staff have taken the required specialized course through the NIC and can attest to the information they learned. The Auditor is familiar with the course content having reviewed it in previous audits. The training materials and interviewed staff support they were trained in how to respond appropriately to sexual assault victims. The Auditor met formally with the Armor staff and was able to ask questions of other contracted staff on the tour. Medical and Mental Health staff knew to whom to report allegations and suspicions of sexual abuse or sexual harassment. They were able to explain the reporting would be up to their agency chain of command while also notifying the chain of command of the prison. Medical and Mental Health Staff knew to also report any concerns to the Department of Corrections investigators or PREA Compliance Manager. The contracted staff reported they also take the same PREA classes from Virginia DOC as state employees. Armor staff will not do forensic medical examinations but are aware of how to protect evidence and what facilities they would refer inmates to for an exam by a SAFE or SANE if needed. Policies reviewed by the Auditor to determine compliance along with interviews, a review of the training program for Medical and Mental Health Staff, and training records for the Armor staff figured into the compliance determination. The Auditor also took into consideration the coordinated response plan and the availability of SAFE nurses in the local hospital.

## SCREENING FOR RISK OF SEXUAL VICTIMIZATION AND ABUSIVENESS

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

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

#### 115.41 (a)

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

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

#### 115.41 (b)

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

#### 115.41 (c)

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

#### 115.41 (d)

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (1) Whether the inmate has a mental, physical, or developmental disability?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (2) The age of the inmate?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (3) The physical build of the inmate?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (4) Whether the inmate has previously been incarcerated?  
 Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (5) Whether the inmate's criminal history is exclusively nonviolent?  
 Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (6) Whether the inmate has prior convictions for sex offenses against an adult or child?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (7) Whether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming (the facility affirmatively asks the inmate about his/her sexual orientation and gender identity AND makes a subjective determination based on the screener's perception whether the inmate is gender non-conforming or otherwise may be perceived to be LGBTI)?  Yes  No

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (8) Whether the inmate has previously experienced sexual victimization?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (9) The inmate's own perception of vulnerability?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (10) Whether the inmate is detained solely for civil immigration purposes?  Yes  No

#### 115.41 (e)

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

#### 115.41 (f)

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

#### 115.41 (g)

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

#### 115.41 (h)



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

#### 115.41 (i)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

#### **Policies and written/electronic documentation reviewed.**

Policy OP 730.2 Screening Assessment and Classification  
 Policy OP 810.1 Offender Reception and Classification  
 Policy OP 810.3 Transferred Offender receiving and Orientation  
 Policy OP 861.1 Offender Discipline  
 Client Classification Screenings  
 Client Reassessments

#### **Individuals interviewed/ observations made.**

Interview with Agency PREA Coordinator  
 Interviews with Armor staff.  
 Interview with Intake and Screening staff  
 Interview with Warden  
 Observation on tour

#### **Summary Determination**

**Indicator (a)** All inmates who are admitted or transferred to Sussex I State Prison will be assessed with an objective screening. This requirement is outlined in policy OP 810.1 (pages 5) it states "Within 24 hours of arrival, prior to bed assignment, a Classification Assessment will be completed in VACORIS for each new offender entering the DOC and housing assignments made accordingly." The policy goes on to state "Utilizing the results of the Classification Assessment in VACORIS and available offender records, staff will screen the offender for potential vulnerabilities or tendencies for acting out with

sexually aggressive or other violent behavior, and will interview and evaluate the offender for High-Risk Sexual Aggressor (HRSA) and/or High-Risk Sexual Victim (HRSV) tendencies.” Policy OP 810.2 sets forth the same requirements for inmates who are transferred in the DOC system on page 4. Evidence supporting that inmates are screened was provided.

**Indicator (b)** The Policy stated in indicator (a) sets forth an obligation for the screening to be completed sooner than the standard requirement. The Virginia DOC requires the screening to be completed in the first 24 hours. The review of the screening reports supports this practice standard is met. The Auditor requested a random sample of files to compare to the report provided on the timing of the screenings and reassessments. There were a few instances where inmates transferred in from other parts of the state. Inmates who arrive late on one day are screened on the next day. The intake officer confirmed that there are transfers that may take several hours to cross the state so the admission and screening days may be different.

**Indicator (c)** The tool developed for screening inmates for potential sexual violence or sexual victimization is an objective tool utilizing information from the inmate’s criminal records, information from other correctional settings, and the client’s self-reported information. The Auditor was provided with the materials on how to administer and score the tool to ensure that the application is objective. The screening information has been put into VACORIS an electronic case management system. The Auditor also asked the Intake officer to show the process by which the questions were asked. Files were reviewed in advance of the audit and the Auditor requested a random sampling of files on-site.

**Indicator (d)** A review of the objective tool used in Virginia DOC facilities shows that it accounts for all 10 elements required in this indicator.

**Indicator (e)** The tool does consider the inmate’s history of violence or sexual abusiveness in the community and prior institutional settings.

**Indicator (f)** The VA DOC policy 810.1 requires assessment within 21 days instead of the standards requirement of within 30 days. The Policy states “Within 21 days from the offender’s arrival at the institution, staff will meet with the offender and will reassess the offender’s risk of victimization or abusiveness based upon any additional, relevant information received by the institution since the intake screening.

- i. The PREA Reassessment must be completed no sooner than 14 days and no later than 21 days after the offender’s arrival at the institution.
- ii. Completion of the Reassessment must be documented as a PREA Reassessment in the Facility Notes section of VACORIS.
- iii. The PREA Reassessment will be scanned and uploaded as an external document to the corresponding PREA Reassessment note.

The Auditor was able to review the report and client files to ensure compliance with the standard.

**Indicator (g)** The Auditor was able to ask staff in formal interviews and review documentation to support PREA reassessments occur for several reasons. The inmate would be reassessed if they were either the victim or the perpetrator of sexual violence, if they engaged in consensual sex in violation of facility rules if additional information becomes known that would affect the scoring. Policy OP 730.2 Screening Assessment and Classification states “An offender’s risk level must be reassessed when warranted due to a referral, request, incident of sexual abuse, or receipt of additional information that bears on the offender’s risk of sexual victimization or abusiveness.” The Auditor was able to review files in which the screening was redone for cause.

**Indicator (h)** The Auditor confirmed that inmates are not disciplined for refusing to answer questions or not disclosing information as part of the screening process. The Auditor spoke with intake staff who complete the initial screening, case managers who complete the re-assessment, and the random sampling of inmates who also confirmed you cannot get in trouble for not answering these questions.

**Indicator (i)** The Virginia Department of Corrections completes the screening information in its electronic case management system. The system limits who may have access to the screening information, especially the client's more sensitive information. Disclosures made in the Medical or Mental health record are completely siloed from the custody staff. Limited information is shared through the Unit management structure to ensure safety but critical information that might be used to exploit an inmate is kept to a limited few individuals.

**Compliance Determination:**

The Sussex I State Prison ensures all inmates are screened for sexual victimization and abusiveness using an objective tool. The policy requires that all inmates be screened initially within 24 hours and reassessed within 14-21 days. The Agency also requires periodic rescreening by using the PREA assessment instrument in CORIS. This is done also when warranted due to a referral, request, incident of sexual misconduct, or receipt of additional information that bears on the prisoner's risk of sexual vulnerability or sexual violence. CORIS is the Virginia DOC electronic case file system that links their records as the inmate moves between facilities. The Auditor was given examples of cases in which the reassessments were done for cause including events that were investigated.

The objective tool was developed by Virginia DOC and has clear guidelines for its use. The tool accounts for all factors required in indicators (d) and (e). They have also implemented a system to ensure that after the initial screening the inmates are asked about sexuality, victimization history, and perceived safety. The Intake officer, who was spoken to confirmed inmates cannot be punished for refusing to answer questions about sexuality, prior victimization, and vulnerability. The Auditor also confirmed this with inmates as part of the formal interviews. Interviews also confirmed that only case management and administrators and treatment professionals know the specific reasons for PREA scoring results in CORIS. Unit Management team members were aware of inmate screening and the importance of using the information. Medical staff will also ask PREA related information at the initial assessment and pass any new information back to the intake staff to ensure the screening encompasses all information obtained at intake.

Compliance was determined based on the sample screens reviewed consistent with required content timeliness requirements in the standard. Interviews with staff and inmates further support that the appropriate questions are being asked.

## **Standard 115.42: Use of screening information**

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

#### **115.42 (a)**

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

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

#### 115.42 (b)

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

#### 115.42 (c)

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

#### 115.42 (d)

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

#### 115.42 (e)

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

#### 115.42 (f)

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

### 115.42 (g)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

### Policies and written/electronic documentation reviewed.

Policy OP 038.3 Prison Rape Elimination Act  
 Policy OP 810.1 Offender Reception and Classification  
 Policy OP 810.2 Transferred Offender receiving and Orientation  
 Policy OP 830.5 Offender Discipline  
 Policy OP 841.1 Offender Programming and Services  
 Client Classification Screenings  
 Client Reassessments

**Individuals interviewed/ observations made.**

Interview with PREA Compliance Manager

Interview with Intake Officer

Interview with Unit Manager

Interview with Random Staff

Interview with random inmates

Interview with transgender inmates

Population report

Observation on tour

**Summary Determination**

**Indicator (a)** The DOC PREA policy OP 038.3 addresses prevention efforts covers the 5 elements of this standard indicator (Pages 6-7). The PREA screen used at SISP provides immediate assistance in determining the appropriate housing unit and bed placement for any new Inmate. If an individual is a known perpetrator of sexual offenses, they would be prohibited from being placed in the same cell as an individual with a known victim history. Individuals who would be likely victims in the institutions can be considered for being celled individually. Unit staff determine, through a multi-discipline team, when an inmate is ready to transition to either work or educational programming. During these team meetings, a potential conflict would be identified between the known individuals on each side. Staff in education and vocational settings confirmed they are provided information to ensure inmates with victimizations histories are kept apart from potential perpetrators of sexual violence.

**Indicator (b)** Safety of the inmates is considered throughout the inmate's stay. Unit management allows for inmates to be grouped in smaller subsets within the pods where the staff can focus on the inmate's needs and learn their behavioral norms. Staff interviewed identified the importance of being able to identify when the behaviors change. The random inmates report they could reach out to the PREA Compliance Manager if they had any individual needs/concerns Interviews with staff also confirm they would act if the inmates voiced concerns. During the initial screening process, inmates are asked about their perception of safety by custody and Armor staff. Inmates also have an opportunity to discuss concerns with mental health and with case management staff during the reassessment period.

**Indicator (c)** Currently the Sussex I State Prison has three transgender or intersex individuals. The Sussex I State Prison is a male correctional facility and the Transgender in the population are housed in general population beds. One transgender individual would like to be housed at a different facility but understands that moving to a lower facility may have to wait because their charges prevent a lower custody facility. Agency policy states " In deciding whether to assign a transgender or intersex offender to a facility for male or female offenders and in making other housing and programming assignments for transgender and intersex offenders; staff will take into consideration whether an assignment would ensure the offender's health and safety and whether the assignment would present management or security problems. A transgender or intersex offender's view with respect to their own safety will be given serious consideration." The transgender case files reviewed by the Auditor supported the process for making decisions is on a case by case basis. Files show both structured reasoning around supporting or denying an inmate's request based on factual information, behavioral actions, and clinical observations. The documentation supported the considerations of the inmate's personal safety and emotional well-being.

**Indicator (d)** Records show that these meetings have occurred twice a year. The meeting notes support wide participation of facility administration, custody staff, and medical and mental health professionals. Meeting notes discuss various aspects of the inmate's life and any change or new



request. The reports document a variety of decisions on programming, housing, personal items approvals, search procedures, and medication approvals. Interviews by the Auditor with Transgender inmates confirm these meetings occur.

**Indicator (e)** Transgender inmates interviewed confirm there is a meeting that occurs shortly after admission (or when they begin identifying as transgender) with a multidisciplinary team to discuss the supports and considerations the inmate wishes to request. Transgender individuals support the process allowed them to make requests as to housing programming searches, medication, and personal items to improve their overall comfort in the facility. As Inmates progress in their treatment, the multidisciplinary team continues to assess the most appropriate housing. One inmate Identified to the Auditor that they were transgender, and the facility team and the PREA Coordinator met with the individual the next day.

**Indicator (f)** DOC Policy 038.3 requires that transgender inmates can shower separate from other inmates. In plans reviewed the transgender inmate showers while other inmates are in lock-up. In unit showers, privacy is maintained through solid privacy doors that allow only the feet and the tops of the inmate's head to be seen. The Auditor confirmed that Transgender inmates shower separately from the rest of the population.

**Indicator (g)** The Virginia Department of Correction does not by policy, practice, or legal requirement house all LGBTI inmates in one housing unit. There is no legal judgment requiring such a condition to exist. The policy prohibits this action "Lesbian, gay, bisexual, transgender, or intersex offenders will not be placed in a dedicated facility, housing unit, or wing solely on the basis of such identification or status" (OP 038.3). This was confirmed with interviews with the PREA Compliance Manager, random staff, and gay and transgender inmates. The Auditor reviewed the overall population of the facility to ensure the identified populations were disbursed throughout the prison.

**Conclusion:** Virginia DOC Policy OP 038.3 Prison Rape Elimination Act described the use of the PREA Screening tool in Indicators (a) and (b). The remaining Indicators are covered in 23.8 Management of Transgender and Intersex Inmates. All individuals entering SISF are asked how they feel about their safety which helps guide the placement process for housing and eventually programming. The Auditor confirmed with the PREA Coordinator and the Warden multidisciplinary teams meet to discuss each transgender inmate's needs and preferences. During the tour and subsequent movement, the Auditor was able to see how transgender inmates would have privacy during shower use. Documentation and interviews support that LGBTI inmates are not all housed together or denied programming or work. Interviews with transgender inmates and other LGBTQI inmates support the SISF has systems in place to ensure their safety.

During the audit, it became apparent that counseling staff needed a review of the required steps once an individual identifies as transgender. The agency and facility immediately held the required meetings with the individual and then provided refresher training for counselors, Unit Managers, and Armor staff on the expectations. A copy of the training outline and attendance was provided to the Auditor.

The standard is determined to be compliant based on policy, supporting documents, and interviews with inmates and staff. The Auditor finds that practices are in place to use screening information and there is good communication about those at risk. The Auditor also took into consideration the responsive efforts of the SISF administration and the PREA/ADA unit's response to an error in the process found during the site visit.

## Standard 115.43: Protective Custody



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

### 115.43 (a)

- Does the facility always refrain from placing inmates at high risk for sexual victimization in involuntary segregated housing unless an assessment of all available alternatives has been made, and a determination has been made that there is no available alternative means of separation from likely abusers?  Yes  No
- If a facility cannot conduct such an assessment immediately, does the facility hold the inmate in involuntary segregated housing for less than 24 hours while completing the assessment?  Yes  No

### 115.43 (b)

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

### 115.43 (c)

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

### 115.43 (d)

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

### 115.43 (e)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

#### **Policies and written/electronic documentation reviewed.**

Policy OP 425.4 Management of Bed and Cell Assignments  
 Policy OP 810.1 Offender Reception and Classification  
 Policy OP 810.2 Transferred Offender Reception  
 Policy OP 830.5 Transfers and Reassignments

#### **Individuals interviewed/ observations made.**

Interview with Agency PREA Coordinator  
 Interview with Warden  
 Interview with Staff in Segregation Unit  
 Interview with the PREA Compliance Manager  
 Observation on tour

#### **Summary Determination**

**Indicator (a)** The Sussex I State Prison refrains from placing inmates at high risk for sexual victimization in involuntary segregated housing. Policy OP 425.4 allows, consistent with the standard for protective custody housing, for a period of 24 hours, while the situation is assessed. DOC policy

states “Offenders identified as HRSV or offenders alleged to have suffered sexual abuse or sexual harassment will not be placed in the restrictive housing unit without their consent unless an assessment of all available alternatives has been made, and it has been determined by the QMHP in consultation with the Shift Commander and Regional PREA Analyst that there are no available alternative means of separation from likely abusers.” SISP administration reports that there have been no cases of protective custody for individuals at risk of sexual abuse in the past three years.

**Indicator (b)** Since it is not the practice of Sussex I State Prison to place individuals in involuntary segregation as a means of providing protection from sexual abuse, the elements of indicator (b) are difficult to assess. The DOC policy states “The institution must clearly document the basis for the institution’s concern for the offender’s safety and the reason why no alternative means of separation can be arranged.

- i. A Sexual Abuse/Sexual Harassment Available Alternatives Assessment must be completed by the Shift Commander prior to placing the offender in a restrictive housing unit.
- ii. If the Sexual Abuse/Sexual Harassment Available Alternatives Assessment cannot be conducted immediately, the Shift Commander may place the offender in a restrictive housing unit on General Detention for up to two hours while completing the assessment.
- iii. A copy of the completed Sexual Abuse/Sexual Harassment Available Alternatives Assessment must be sent to the Regional PREA Analyst immediately upon completion with a copy maintained in the PREA Investigation file.”

The policy goes on to state the following on access to programming. “If access to activities and services is more restrictive for offenders identified as HRSV or who have alleged to have suffered sexual abuse or sexual harassment than for others in their housing status, staff will document the opportunities that have been limited, the duration of the limitation and the reasons for such limitations on the Denial of Activity or Service.”

**Indicator (c)** The Department of Correction has a policy OP 425.4 Management of Bed and Cell Assignments that addresses the requirements of this standard in protecting inmates and staff who report PREA incidents from retaliation. The policy requires SISP not to house the victims or those at risk in segregation as a manner of protection unless there are no other means and that the situation is reassessed every 30 days. The policy states “Offenders will remain in the restrictive housing unit only until an alternative means of separation from likely abuse can be arranged; this assignment will not ordinarily exceed 30 days.”

**Indicator (d)** Since SISP has not used segregated housing to achieve protective custody of individuals at risk of sexual misconduct in the past three years there is no documentation to review.

**Indicator (e)** The Department of Correction has a policy that (Policy OP 830.5 Transfers and Reassignments) addresses the requirements of this standard in protecting inmates and staff who report PREA incidents from retaliation. The policy requires SISP not to house the victims or those at risk in segregation as a manner of protection unless there are no other means and that the situation is reassessed every 30 days. The policy requires regular review by staff and Mental Health professionals and communication to the Regional PREA Analyst.

### **Compliance Determination**

Interviews with the Warden and the facility PREA Monitor confirm that the facility has not had to use involuntary segregation to ensure the safety of any victims of sexual assault. The Warden confirms that the aggressor would be the individual moved to segregation or a higher level of custody. An interview with an inmate victim confirms that he was not held in administrative segregation as a protective

condition. Investigative reports support there is no practice of segregation of victims and is consistent with the Warden's interview. In addition to discussions with the inmates, staff, and administration, during the tour, the disciplinary segregation staff confirmed that no individual was in the unit for protection from sexual assault. The standard is compliant based on the information provided, the tour, the interviews, and the policy and practice of the Sussex I State Prison.

## REPORTING

### Standard 115.51: Inmate reporting

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

#### 115.51 (a)

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

#### 115.51 (b)

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

#### 115.51 (c)

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

- Does staff promptly document any verbal reports of sexual abuse and sexual harassment?  
 Yes  No

### 115.51 (d)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

### Policies and written/electronic documentation reviewed.

Policy OP 038.3 Prison Rape Elimination Act  
 Policy OP 803.3 Offender Telephone Services  
 Policy OP 801.6 Offender Service  
 Policy OP 866.1 Offender Grievance  
 PREA Brochure  
 Inmate orientation book  
 PREA Posters

### Individuals interviewed/ observations made.

Interview with Random Staff  
 Interview with Contracted staff  
 Interview with Random Inmates  
 Observation on tour of Reporting information

### Summary Determination

**Indicator (a)** The Virginia DOC has multiple policies that address the concerns of this standard indicator. The policy directs staff and inmates on the ability to report sexual harassment, sexual abuse, or staff neglect that contributed to abuse. Staff interviewed knew they had to report all allegations of abuse or harassment and any coworker’s action or inaction that lead to sexual misconduct against an inmate. Random inmate interviews confirmed that the inmates know there are multiple ways to report a concern within the facility or to the Department of Corrections Central Office. Inmates knew of the postings and options to report a concern including directly to a staff they trust, to any case manager or medical or mental health staff, by writing the Warden or by calling the PREA ‘hotline’ (#55).

**Indicator (b)** The Virginia Department of Corrections has set up a way for inmates can report a PREA concern to an outside agency. The phone numbers to access the local rape crisis agency Action Alliance are painted on walls prominently in each housing unit. The PREA Poster available has the address of Action Alliance if they do not feel comfortable reporting to DOC staff. Inmates were aware of these options and stated they could call attorneys or family members to report a concern. The inmates were also confident if a family member called to report a concern, the staff would take it seriously and it would be investigated. Action Alliance has set up, with the DOC, a reporting line and a treatment/support line. The Auditor tried the # 55 line from a housing unit which prompts you to either press 1 to report a complaint or 2 to speak with a rape crisis advocate. The Auditor called the Hotline and the state PREA Coordinator confirmed he received a notification. The Auditor confirmed with Action Alliance that the reporting process allows them to report all concerns while allowing the individual to remain anonymous. By allowing the inmate to choose to report a concern separate from seeking emotional support they can report the complaints back to the DOC for investigation. The Sussex I State Prison does not house inmates for immigration violations. Most prisoners were not sure about who on the other end but felt it was an option for them reporting a concern.

**Indicator (c)** Interviews confirm consistent with agency policy (OP 038.3 Prison Rape Elimination Act page 8-9) that all staff take any report of a PREA related incident seriously and report the concern to a superior or the facility investigator. Random staff knew that they had to report the claim no matter the source of information including anonymous notes. The staff reported that any claim, even if they thought it did not occur, needed to be reported and documented in writing. The staff also confirmed that after giving notice to a supervisor they were required to file a written report on the claim. Finally, the staff also confirmed they had to report on the actions or failure to act of a fellow employee that leads to a sexual assault.

**Indicator (d)** The Virginia Department of Correction provides several avenues for staff to report a concern of sexual assault or sexual harassment. Beyond reporting an incident to their immediate supervisor, if the staff had a concern about the supervisor or another staff being involved with a client they report to another supervisor or a higher-ranking individual, they can make a report using either the posted phone numbers, Human Resources, the Warden or the Virginia DOC PREA Coordinator. Staff interviews confirmed they were aware of multiple avenues to report a concern. The staff knew they could report out of the chain of command without consequences.

**Conclusion:** Virginia Department of Corrections has several policies that provided staff and inmates to promote reporting. Interviews with staff were consistent in their understanding of their duties of accepting and responding to all reports of sexual assault or sexual harassment whether it was done verbally, in writing, anonymously, or by a third party (indicator (c)). Inmates interviewed were aware of multiple ways in which they could report including telling staff, calling the hotline, mailing administration or the rape crisis agency, complete grievance form or call or write the local rape crisis agency. Posters seen on all the housing units during the tour direct inmates to call or write Action Alliance. Inmates spoken to formally and on tour reported comfort in speaking with staff especially the facility PREA Compliance Manager if they had a concern. Custody staff reported knowing how to privately report PREA concerns to the administration and that there is no problem reporting out of the chain of command. The Auditor finds compliance with standard provisions, based on the policy, documentation provided and viewed on the tour, and the interview findings of random staff and inmates as well as interview information from the Action Alliance representative, PREA Compliance Manager, and PREA Coordinator.

## Standard 115.52: Exhaustion of administrative remedies

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

#### 115.52 (a)

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

#### 115.52 (b)

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

#### 115.52 (c)

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

#### 115.52 (d)

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



inmate consider the absence of a response to be a denial at that level? (N/A if agency is exempt from this standard.)  Yes  No  NA

#### 115.52 (e)

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

#### 115.52 (f)

- Has the agency established procedures for the filing of an emergency grievance alleging that an inmate is subject to a substantial risk of imminent sexual abuse? (N/A if agency is exempt from this standard.)  Yes  No  NA
- After receiving an emergency grievance alleging an inmate is subject to a substantial risk of imminent sexual abuse, does the agency immediately forward the grievance (or any portion thereof that alleges the substantial risk of imminent sexual abuse) to a level of review at which immediate corrective action may be taken? (N/A if agency is exempt from this standard.)  
 Yes  No  NA
- After receiving an emergency grievance described above, does the agency provide an initial response within 48 hours? (N/A if agency is exempt from this standard.)  Yes  No  NA
- After receiving an emergency grievance described above, does the agency issue a final agency decision within 5 calendar days? (N/A if agency is exempt from this standard.)  
 Yes  No  NA
- Does the initial response and final agency decision document the agency's determination whether the inmate is in substantial risk of imminent sexual abuse? (N/A if agency is exempt from this standard.)  Yes  No  NA
- Does the initial response document the agency's action(s) taken in response to the emergency grievance? (N/A if agency is exempt from this standard.)  Yes  No  NA
- Does the agency's final decision document the agency's action(s) taken in response to the emergency grievance? (N/A if agency is exempt from this standard.)  Yes  No  NA

## 115.52 (g)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

#### **Policies and written/electronic documentation reviewed.**

Policy OP 038.3 Prison Rape Elimination Act  
Policy OP 861.1 Offender Discipline  
Policy OP 866.1 Offender Grievance  
SISP Investigation Chart  
Memos from Warden

#### **Individuals interviewed/ observations made.**

Interview with facility PREA Monitor  
Interview with Warden  
Interview with Grievance Officer  
Interview with Random Inmates

Observation on tour

#### **Summary Determination**

**Indicator (a)** The Sussex I State Prison is not exempt from the standard; inmates can file a grievance on conditions that violate their rights or prison rules. Sexual misconduct is a reason for which an inmate can file a grievance. Virginia DOC policy states "The Offender Grievance Procedure is one of the multiple internal ways for offenders to privately report sexual abuse and sexual harassment, retaliation by other offenders or staff for reporting sexual abuse and sexual harassment, and staff neglect or violation of responsibilities that may have contributed to such incidents." There were no grievance forms filed for sexual assault allegations. The Auditor was able to review complaints from harassment complaints.

**Indicator (b)** Agency policy and client handbooks support the inmate can file a grievance to a person who is not the subject of the grievance, and there is not a requirement to resolve the situation through an informal process. Agency policy OP 866.1 Offender Grievance sets forth language consistent with the standard. The policy denotes when there is a deviation from standard grievance to conditions that need to be met specifically in PREA related grievances. A review of the policy (page 2) shows there are no time restraints on the individual's right to file. The standard grievance at SISP are required to be filed within 30 days of the incident. The policy also states there is no obligation for the grievant to have an informal resolution meeting with the party who sexually assaulted or harassed them

**Indicator (c)** The facility has large mailboxes on the outside of the housing units that inmates can submit confidential letters to the grievance officer, PREA Coordinator, or the Warden. Grievances can be filed in a sealed envelope given to staff if the inmate is restricted to housing. Inmates can direct the mail to the appropriate administrator who will forward it to investigators and the grievance officer. Inmates interviewed report mail or grievances to be the second most common way they would use to report a concern after the PREA Hotline #55.

**Indicator (d)** Policy OP 866.1 Offender Grievance Sets forth the requirements for response and appeal consistent with the standard. The Grievance response times are spelled out in the policy. The Auditor had the Regional PREA Analyst pull a grievance form after a random interviewee claimed he was not responded to in time. The DOC was able to track the complaint which after the review was not a PREA concern but a COVID -19 issue and was denied within 4 days and referred to the Individual's Housing Unit Supervisor.

**Indicator (e)** The grievance policy states inmates may be assisted in filing the grievance by any staff person or by any other person with whom the prisoner is permitted to have contact. The Auditor reviewed how the agency handles third part complaints including grievances and was provided with examples of these complaints. Such a person may also file the grievance on behalf of the prisoner or inmate, provided that the prisoner or inmate consents to the filing. Inmates spoken to by the Auditor confirmed that there is no prohibition on assisting or filing a grievance for another inmate. Staff were also aware they need to accept all complaints or grievances from third party individuals.

**Indicator (f)** Policy OP 866.1 describes the provisions for an emergency grievance. "Emergency Grievances are provided for offender reporting and expedited staff responses to allegations that an offender is subject to a substantial risk of imminent sexual abuse and to situations or conditions which may subject the offender to immediate risk of serious personal injury or irreparable harm. It is the duty of all corrections employees to be responsive to emergency grievances." The forms have tracking numbers to allow for systematic review by the administration and preventing them from being diverted. There were no incidents in which an emergency grievance was filed in the last 12 months.

**Indicator (g)** Inmates can only be disciplined if, through an investigative process, it is substantiated that the grievance was filed in bad faith. This is the same standard for all PREA complaints filed even if they are not through the grievance process. The facility grievance form has a location in which the Grievance Officer can document if he believes the individual is abusing the intent of the grievance process. An investigation by the SIU Detective or the Intelligence Unit would still occur to determine the bad faith filing. Policy states "Disciplinary charges may be brought against an offender for filing a grievance related to alleged sexual abuse only where the institution demonstrates that the offender filed the grievance in bad faith. Both the regional PREA Analyst and the Warden confirmed they are very careful before imposing discipline to avoid impacting others from coming forward to report a PREA Concern.

### Compliance Determination

Sussex I State Prison is not exempt from the exhaustion of administrative remedies. The Virginia Department of Corrections has a policy in place that covers the inmates' rights to seek administrative resolutions. There were no instances in which an emergency grievance was filed related to sexual abuse. Inmates interviewed knew they could file a PREA related concern through the grievance process but acknowledge it would not be as quick in resolving as telling a staff person directly or calling the PREA Hotline. Inmates report they can get assistance from other inmates in completing forms if needed. Inmates reported comfort in telling staff directly about concerns and if they felt it was not addressed, they would go send a request to the Warden or the PREA Compliance Manager to discuss concerns. Compliance determination relied on the policy and interviews with the PREA Analyst, the Warden, the PREA Compliance Manager, and random inmates who were aware of the grievance process was a possible avenue to report a Sexual Misconduct concern.

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

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

#### 115.53 (a)

- Does the facility provide inmates with access to outside victim advocates for emotional support services related to sexual abuse by giving inmates mailing addresses and telephone numbers, including toll-free hotline numbers where available, of local, State, or national victim advocacy or rape crisis organizations?  Yes  No
- Does the facility provide persons detained solely for civil immigration purposes mailing addresses and telephone numbers, including toll-free hotline numbers where available of local, State, or national immigrant services agencies?  Yes  No
- Does the facility enable reasonable communication between inmates and these organizations and agencies, in as confidential a manner as possible?  Yes  No

#### 115.53 (b)

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

#### 115.53 (c)

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

## Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

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### **Policies and written/electronic documentation reviewed.**

Policy OP 038.3 Prison Rape Elimination Act  
MOU with Action Alliance

### **Individuals interviewed/ observations made.**

Interview with Agency PREA Coordinator  
Interview with Warden  
Interview with Action Alliance staff  
Interviews with Random Inmates  
Observation on tour

### **Summary Determination**

**Indicator (a)** Virginia Department of Corrections policy OP 038.3 Prison Rape Elimination Act requires on page 13 the agency ensures a current MOU with a rape crisis organization. "The DOC maintains a Memorandum of Understanding (MOU) with a community service provider who is able to provide offenders with access to free confidential emotional support services related to sexual abuse. A copy of this agreement is available from the PREA/ADA Supervisor." The Sussex I State Prison provides access to the local rape crisis agency, but on-site access has been curtailed during the COVID-19 crisis. Action Alliance will provide phone support and will assign staff or work with other local providers if the inmate request face to face support. The Agency's employees are considered professional visitor status which allows for confidential communication. Inmates can communicate by phone to Action Alliance utilizing #55 on the unit phones which will not record the conversation. Sussex State Prison does not house inmates on immigration violations.

**Indicator (b)** All inmates interviewed understood that calls to the Hotline would be reported back to the institution. In an inmate dials #55 and chooses option two they can have confidential communication which will not necessarily be reported. All SISP inmates sign acknowledgment forms with Armour as part of their service introduction for both medical and mental health services. Inmates also confirmed they understood communication with Armour staff would be confidential unless there was a danger to themselves or another person. Inmates were aware the phone calls were not recorded if they called the

rape crisis agency. The Auditor confirmed with inmates and advocacy organizations that professional visit opportunities outside of the COVID restrictions would allow for a more open dialog.

**Indicator (c)** The Department of Correction has a Memorandum of Understanding with Action Alliance which covers Sussex I State Prison. The agreement is renewable. The Auditor was able to review MOUs dating back until 2014 and the annual renewal of the agreement from 2015 through 2020.

**Conclusion:** Inmate victims at SISF can access victim advocates for emotional support. The agency has entered into a Memorandum of Understanding with the Action Alliance of Richmond Virginia to provide support to victims (Indicator (c)). Action Alliance is part of a Coalition of Sexual Assault and domestic violence service. As part of the audit process, the Auditor spoke by phone to an Action Alliance representative who confirms their ability to provide service at DOC facilities. COVID-19 has impacted any onsite visits at the DOC facilities or local Hospitals. The Agency Investigator knew about the importance of offering the support of Action Alliance and its affiliates during the investigation and after its conclusion. The PREA Brochure and signage at the facility had a toll-free number for inmates to access from the unit phone in the facility.

Requirements for compliance with this standard are covered by agency policy OP 038.3 Prison Rape Elimination Act. In determining compliance, the Auditor also considered interviews with the Rape Crisis agencies and the Inmates accessing services. Inmates could identify how confidential the communication is within the facility including mail and telephone contacts. Inmates knew that outside counseling staff could be spoken to in a professional visiting setting normally. The Auditor could see on the tour posters for Action Alliance. The Auditor requested and the facility obliged to refresh staff on the two different aspects of #55. One (1) as a way of reporting a PREA concern and two (2) as a way an inmate in emotional crisis could seek assistance.

## Standard 115.54: Third-party reporting

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

#### 115.54 (a)

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

#### Auditor Overall Compliance Determination

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



## Instructions for Overall Compliance Determination Narrative

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

### **Policies and written/electronic documentation reviewed.**

Policy OP 038.3 Prison Rape Elimination Act  
Virginia DOC Website  
PREA Posters on Housing units  
information of the PREA report Hotline

### **Individuals interviewed/ observations made.**

Interview with Agency PREA Coordinator  
Random Staff Interviews  
Observation on tour

### **Summary Determination**

**Indicator (a)** Virginia Department of Correction has developed a mechanism for individuals who want to report PREA concerns as a third party; be they fellow inmates, family, or friends. Information can be given in person, by phone, by e-mail, by US mail, or by contacting the agency PREA Coordinator through the agency website VADOC.Virginia.Gov. There is information directing inmates in the PREA brochure, PREA poster, and on the website noted above. Staff were aware that they must take all reported concerns about PREA potential violations including from third parties. The facility phones allow for inmates to dial out to the advocates free of charge.

**Conclusion:** Virginia Department of Corrections has put in place multiple resources for inmates and families to report a PREA related concern. The PREA Coordinator has a position in her unit responsible to field all calls and emails that come into including third-party sources. As part of the audit process, the PREA Auditor tested the unit Phones to ensure the phone numbers on the poster could be accessed. Compliance was based on policy and the systems VA DOC has put in place to support the inmates and that inmates were aware they could make a complaint on behalf of another inmate. Random staff interviews further supported compliance as they knew that they needed to report all third-party complaints no matter the source. Finally, the Auditor took into consideration the several options listed on the state's website for filing a PREA Complaint and the annual report which delineate the number of calls by region and facility.

## OFFICIAL RESPONSE FOLLOWING AN INMATE REPORT

### **Standard 115.61: Staff and agency reporting duties**

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

#### **115.61 (a)**



- Does the agency require all staff to report immediately and according to agency policy any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in a facility, whether or not it is part of the agency?  Yes  No
- Does the agency require all staff to report immediately and according to agency policy any knowledge, suspicion, or information regarding retaliation against inmates or staff who reported an incident of sexual abuse or sexual harassment?  Yes  No
- Does the agency require all staff to report immediately and according to agency policy any knowledge, suspicion, or information regarding any staff neglect or violation of responsibilities that may have contributed to an incident of sexual abuse or sexual harassment or retaliation?  Yes  No

#### 115.61 (b)

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

#### 115.61 (c)

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

#### 115.61 (d)

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

#### 115.61 (e)

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

#### Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

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### **Policies and written/electronic documentation reviewed.**

OP 038.1 Reporting Important or Serious Incidents

OP 038.3 Prison Rape Elimination Act

OP 038.4 Notification of serious injury, illness or death

OP 720.2 Medical Screening, Classification, and Levels of Care

OP 720.7 Emergency Medical Equipment and Care

OP 730.2 MHS Screening, Assessment and Classification

OP 801.6 Offender Services

Incident reports documenting report made by/to third party, anonymous or medical/mental health staff

Virginia Department of Social Services Website

Virginia Laws on vulnerable adults

### **Individuals interviewed/ observations.**

Random Inmates

Random Staff

Warden

SISP Investigators

Medical and Mental Health Staff

PREA Compliance Manager

### **Summary determination.**

**Indicator a).** The Sussex I State Prison has trained its staff, contractors, and volunteers on the importance of reporting all allegations of sexual abuse, sexual harassment, and any forms of retaliation against individuals who reported or cooperated in an investigation of such misconduct. Several policies direct staff on such expectations. PREA policy OP 038.3 (page 5) utilizes the language of the standard to set forth this expectation. It reads "Any employee, volunteer, or contractor shall immediately report to their supervisor or the officer in charge any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in a facility, whether or not it is part of the DOC; retaliation against offenders or staff who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation". Interviews with random staff supported an understanding of this expectation. They knew that they had to forward all allegations no matter the source or their personal beliefs as to the validity of the claim. The Auditor was provided examples of reports that documented allegations of sexual abuse or sexual harassment that were received through third parties including advocates and family members. The Auditor was able to see the reports from the reporting hotline which prompted investigations as well as allegations that were reported to contracted medical or mental health staff.

**Indicator b).** The Department of Corrections policy OP-038.1 Reporting Important or Serious Incidents (page 5) states "Apart from reporting to designated supervisors or officials, any information related to a

sexual abuse report shall not be revealed to anyone other than to the extent necessary, as specified in operating procedures, to make treatment, investigation, and other security and management decisions.” Random staff interviewed were able to voice the expectation of keeping the information confidential. They verbalized the need to involve only the key management and investigative staff necessary to obtain help and contain any evidence.

**Indicator c).** Medical and mental health services providers in Virginia have a duty to report incidents of sexual abuse, sexual harassment, or information that would prevent such actions. Policy OP 730.2 states “) Before beginning the Sexual Assault Assessment, the QMHP will advise the offender of the practitioner’s duty to report, and the limitations of confidentiality and that such information may be available to the facility administration in the context of an investigation in accordance with Operating Procedure 730.6, Mental Health Services: Confidentiality”. The Auditor confirmed with medical and mental Health staff that inmates are made aware of the limits of confidentiality. Random inmates were also asked if they understood limits to confidentiality when speaking to medical or mental health staff. The inmates acknowledge they understood if the information was related to the potential risk to them or another individual the information would be disclosed to facility investigators.

**Indicator d).** The facility does not serve individuals under the age of 18. Agency and Facility management and investigators were aware that abuse of individuals who are considered vulnerable adults must be reported to the State Department of Social Services. The Auditor confirmed with investigators that abuse toward these targeted populations would be reported to the appropriate state agency and that there are additional charges that may be applied in cases where the victim met the definition of a vulnerable adult. The Auditor reviewed various Virginia websites that define the expectation of reporting abuse and the legal ramifications for the perpetrators of such misconduct. The Warden confirmed that no case in the last 12 months had to be reported to the Department of Social Services.

**Indicator e).** The Warden, PREA Compliance Manager, and facility Investigators confirmed that all allegations of sexual misconduct are reported to the facilities intelligence unit to initiate an investigation of the claim. If information supports a criminal act has occurred, the agency's Criminal Investigator is then involved. PREA policy supports that all allegations are referred for investigations.

#### **Compliance Determination:**

The Virginia Department of Corrections has put into place policies that support the expectations of the standards. The Language is reiterated in several policies that further support the commitment to investigate all claims of sexual abuse, sexual harassment, and/or retaliation. The staff and inmates of the Sussex I State Prison have been educated on the expectations of reporting, that all claim no matter the source should be investigated. Inmates and staff interviewed supported an understanding of confidentiality, its importance in the investigative process, and the limitations of confidentiality in a medical or mental health setting. The supporting documents provided to the Auditor support that all claims including third party and anonymous claims are forwarded for investigations. The Auditor finds the facility to be compliant with all aspects of this standard. The Auditor’s interviews supported a staff that was well trained in the expectations of the standard. The interview answers coincided with the documents reviewed that all claims are forwarded to the investigative teams. A review of investigations provided support the Sussex State Prison has investigated claims no matter the source. The Auditor also found they investigate all claims, including ones that may not meet the definitions found in the law. The Auditor also found the investigative staff and facility administration understood its obligation to inform other organizations responsible for the rights of vulnerable adults.

## Standard 115.62: Agency protection duties

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

### 115.62 (a)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

#### **Policies and written/electronic documentation reviewed.**

OP 038.3 Prison Rape Elimination Act  
OP 720.2 Medical Screening, Classification, and Levels of Care  
OP 830.6 Offender Keep Separate Management

#### **Individuals interviewed/ observations made.**

Director of VA Department of Corrections  
Warden  
Random Staff

#### **Summary determination.**

**Indicator a).** The Department of Corrections has at its resources several options to ensure the safety of an inmate who is at imminent risk of sexual abuse. Policies set expectations. "When a staff member, volunteer, or contractor learns that an offender is subject to a substantial risk of imminent sexual abuse, the individual must notify their supervisor, or the Officer-in-Charge (OIC) so that immediate action can be taken to protect the offender." (OP383.3). An allegation of imminent risk requires, "the QMHP will immediately consult with the Facility Unit Head or designee and recommend housing interventions or other immediate action to protect an offender when it is determined that the offender is subject to a substantial risk of imminent sexual abuse, or is considered at risk for additional sexual victimization." The agency's policy OP 830.6 Offender Keep Separate Management outlines different steps to be

taken to ensure the safety of inmates including in cases of imminent risk of sexual abuse. The process includes immediate investigation of a situation, a separation of individuals, and formal classification notations of the situation. Random staff interviewed noted the responsibility to keep an inmate safe from potential abusers until the investigative team can arrive to further review the situation.

**Compliance Determination:**

The Virginia Department of Corrections has in place both policy and appropriate resources to keep safe individuals at imminent risk of sexual abuse. As outlined in indicator a) there are several policies that direct steps to be taken to protect such individuals from sexual abuse. The Director and the Warden support the expectation is the response will be immediate upon learning of any inmate at imminent risk. The Warden reports that given the size of the facility most situations of potential conflict can be resolved by moving one of the parties to another unit within the institution, The have been able to manage inmate conflicts without having to remove an individual from the general population unit to a special management unit. The Warden confirmed the ability to move either party to another institution in a relatively expedient fashion. Movements of this nature would involve the statewide Classification Unit staff and the Warden of another prison if an intersystem move was determined to be in the inmate's best interest. Though SISF has not had to use this process for imminent risk individuals the Warden is confident in his ability to maintain the safety of an inmate. The policies and Interviews completed support the ability of Sussex I State Prison to respond to imminent risk claims of sexual abuse. The Auditor finds the standard has been met based on these factors.

## Standard 115.63: Reporting to other confinement facilities

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

#### 115.63 (a)

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

#### 115.63 (b)

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

#### 115.63 (c)

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

#### 115.63 (d)

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

### Auditor Overall Compliance Determination

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

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

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

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

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

#### **Policies and written/electronic documentation reviewed.**

OP 038.3 Prison Rape Elimination Act

OP 030.4 Special Investigations Unit

#### **Individuals interviewed/ observations.**

Interview with PREA Coordinator

Interview with Warden

#### **Summary determination.**

**Indicator a).** The Sussex I State Prison administration, PREA Compliance Manager, and Investigator all are aware that inmates who report abuse at prior institutions will have the complaint forwarded by the Warden to the previous facility's head. VA DOC PREA Policy OP 038.3 (page 9) states the following:

"Any staff member, volunteer, or contractor, who receives an allegation that an offender was sexually abused while confined at another facility, must notify the Organizational Unit Head.

- i. The Organizational Unit Head or designee will notify the head of the facility or appropriate office of the agency where the alleged abuse occurred.
- ii. Notification must be provided as soon as possible, but no later than 72 hours after receiving the allegation.
- iii. The Organizational Unit Head or designee must document that it provided such notification."

The Auditor confirmed through interviews with the above individuals that if current Sussex inmates claims abuse occurring in another facility (including ones outside the control of the DOC) the facility will be notified to allow an appropriate investigation to occur. The Regional PREA Analyst also confirmed the DOC PREA/ADA unit would also be notified. The Auditor was provided information that in the past 12 months there were no such cases.

**Indicator b).** As Noted in Indicator a) the Virginia Department of Correction Policy requires notification within 72 hours after the facility became aware of the alleged crime. The Warden of Sussex State Prison was aware of the timeframe and the expectation required of him to notify the leadership of the facility where the crime is alleged to have occurred.

**Indicator c).** It is the reported practice that phone call notifications are followed up with email notifications and appropriate documentation to support any investigation.



**Indicator d).** In Policy OP 038.3 Prison Rape Elimination Act (page 9) the DOC sets forth the requirement of the initiation of an investigation if the Warden receives an allegation from another institution. “The facility head or agency office that receives the notification is responsible for ensuring that the allegation is investigated in accordance with the requirements of the Prison Rape Elimination Act National Standards “. The Warden of Sussex State Prison is aware of this requirement and the facility has had two such notifications in the prior 18 months. In each case, the information was referred to the Criminal Investigator.

**Compliance Determination:**

The Auditor finds the facility is compliant with the standard’s expectations. The Warden and the DOC Director were clear on their commitment to ensuring each inmate victims were offered a thorough investigation. The Warden was aware of the timeliness of notifications and the facility provided documentation to support that Sussex I State Prison has handled notifications and immediately referred them for investigation. Absent an inmate in the population who reported having told staff about abuse at another institution the Auditor had to make his determination based on policy, Interviews, and the supporting documents that supported cases were referred for investigation.

## Standard 115.64: Staff first responder duties

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

#### 115.64 (a)

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

#### 115.64 (b)



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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

#### **Policies and written/electronic documentation reviewed.**

OP 030.4 Special Investigations Unit  
 OP 038.3 Prison Rape Elimination Act  
 PREA Training Materials

#### **Individuals interviewed/ observations.**

Random Staff  
 Medical Staff

**Indicator a).** The PREA policy of the VA Department of Correction sets forth the expectations for staff who are first on the scene of a reported sexual assault. The policy states “Facility Staff Responsibilities  
 1. Upon learning of an allegation that an offender was sexually assaulted or abused, the first security a staff member to respond to the report will be required to:  
 a. Separate the alleged victim and abuser to ensure the victim’s safety.  
 b. Notify the OIC and preserve and protect the crime scene until appropriate steps can be taken to collect any evidence and.  
 c. Request that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, showering, brushing teeth, changing clothes, urinating, defecating, drinking, or eating, if the abuse occurred within a time period that still allows for the collection of physical evidence  
 d. Ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, showering, brushing teeth, changing clothes, urinating, defecating, smoking, drinking or eating, if the abuse occurred within a time period that still allows for the collection of physical evidence.  
 e. If the first staff responder is not a security staff member, the responder will be required to ensure the victim’s safety, request that the alleged victim not take any actions that could destroy physical evidence such as showering, eating, brushing teeth, or drinking until after evidence collection, and notify the OIC”

Interviews with random staff supported they were trained in the expectations of the first responder duties. The staff was able to provide steps they would take consistent with the policy statement above and the training materials reviewed as part of 115.131.

**Indicator b).** Interviews with Educational staff, Vocational staff, Medical, and Mental Health staff confirm they were aware of how to protect evidence and act as a first responder. DOC trains all staff in the facility on the expectation of the first responder. Non-security staff and contracted staff are provided the same training that the DOC staff go to annually. Training records and their ability to state the first responder duties support an understanding of how to protect the inmate and the evidence.

**Compliance Determination:**

The facility did not have any custody staff available who had acted as a first responder to an incident of a sexual abuse case in the past 12 months the most recent sexual assault cases were reported through the medical department. In the cases, the records support and immediate response including sending the individual out for a forensic exam. The random staff interviewed support they have an understanding of the facility's efforts to protect inmates who allege sexual abuse, protect evidence, and provide quick access to medical and mental health care. The medical staff was aware of the protocol to protect evidence on inmates until they can be seen by a Sexual Assault Nurse Examiner. All Staff also knew the importance of thorough documentation of the incidents and the importance of maintaining confidentiality about the incident except to those staff needed to ensure care and support the investigative process. The Auditor based the determination of compliance on the policy in place, the documents supporting the process, and the interviews with staff.

## Standard 115.65: Coordinated response

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

### 115.65 (a)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

**Policies and written/electronic documentation reviewed.**

Sussex I State Prison PREA Plan  
The VA DOC PREA Response Checklist  
OP 075.1 Emergency Operations Plan  
OP 038.3 Prison Rape Elimination Act

**Individuals interviewed/ observations made.**

Warden  
PREA Coordinator

**Summary determination.**

**Indicator a).** The Virginia Department of Correction has put language into both the agency's Emergency Plan policy and it's PREA policy. Each Document requires the agency's correctional facilities to have an operational plan the defines the role of individuals in the institution in responding to a sexual assault incident. The PREA policy and the agency PREA response checklist provide facilities direction in the development of a plan. The Auditor reviewed the plan which discusses the roles of the first responder, the responding supervisor, the medical staff, the mental health staff, the investigators, and the PREA Compliance Manager. The document also states when the Warden and Assistant Warden are to be notified as well as the PREA Coordinator's Office is to be notified. The step by step plan provides staff with direction during the crisis and when accompanied by the response checklist allows for a thorough and consistent response to a sexual assault incident.

**Compliance Determination:**

The Auditor has reviewed the policies, and the Sussex I State Prison PREA Response Plan in determining compliance. The plan provides direction for a consistent multi-discipline response to the sexual assault which provides for the inmate victim's medical and emotional health while ensuring the effort protects evidence that could lead to a criminal conviction. The plan is available to supervisory staff and interviews with the Warden and PREA Compliance Manager support swift communication occurs between all levels of the facility leadership and quick notification and support from the agency's PREA/ADA office. Interviews, observations, and the documents presented to support the facility is compliant with standard expectations.

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

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

### 115.66 (a)

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

### 115.66 (b)

- Auditor is not required to audit this provision.

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

#### **Policies and written/electronic documentation reviewed.**

Virginia Code §40.1

OP 135.1 Standard of Conduct

#### **Individuals interviewed/ observations.**

Interview with Warden

Interview with PREA Coordinator

**Indicator a).** The Auditor was provided information from the DOC Operations Manager supporting that there is no collective bargaining. The documentation quotes state law " Virginia Code §40.1 - 57.2 prohibits state, county, and municipalities from collective bargaining or entering into a collective bargaining contract with a union with respect to any matter relating to an agency or their employment service.". To further support the Department of Correction's ability to protect the inmate victim from an alleged staff abuser the Auditor reviewed OP 135.1 Standards of Conduct. In this policy (page 7) the DOC sets forth the ability to place an employee out on administrative leave during an investigation. The Auditor was also informed that agency policy was recently clarified to ensure staff in sexual harassment cases will be moved during the investigation of the claims.

**Indicator b).** The Auditor is not required to review this provision.

**Compliance Determination:**

The Auditor has confirmed the Sussex I State Prison does not have any collective bargaining elements that would prevent the removal of a staff person from contact with an alleged victim of sexual abuse. The Auditor has determined the facility is compliant with the standard expectations. This conclusion was based on the VA. State Code, DOC Policy, and interview with facility and agency leadership.

**Standard 115.67: Agency protection against retaliation****All Yes/No Questions Must Be Answered by the Auditor to Complete the Report****115.67 (a)**

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

**115.67 (b)**

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

**115.67 (c)**

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

- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor any inmate disciplinary reports?  Yes  No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor inmate housing changes?  Yes  No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor inmate program changes?  Yes  No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor negative performance reviews of staff?  Yes  No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor reassignments of staff?  Yes  No
- Does the agency continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need?  Yes  No

#### 115.67 (d)

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

#### 115.67 (e)

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

#### 115.67 (f)

- Auditor is not required to audit this provision.

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

**Policies and written/electronic documentation reviewed.**

Policy – 038.3 Prison Rape Elimination Act

Policy – 075.7 Critical Incident Peer Support Team

Policy – 135.2 Rules Governing Employee relationships with Offenders

Retaliation Monitoring Logs

Investigative Reports

**Individuals interviewed/ observations.**

PREA Compliance Manager

Inmates who had filed complaints

**Summary determination.**

**Indicator a).** The Virginia DOC PREA policy OP 038.3 states “All staff and offenders who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations will be protected from retaliation by other offenders or staff.” The policy language ensures a process for protecting those who report or participate in an investigation of a PREA incident. The policy goes on to identify the individual responsible for monitoring these individuals at a facility level. The policy states “For at least 90 days following a report of sexual abuse, the PREA Compliance Manager or other designated facility staff will monitor the conduct and treatment of offenders and staff who reported sexual abuse or cooperated with a sexual abuse investigation, and of offenders who were reported to have suffered sexual abuse to see if there are changes that may suggest possible retaliation by offenders or staff, and will act promptly to remedy any such retaliation.” The Auditor confirmed with the PREA Compliance Manager and the Warden the individuals responsible for monitoring inmates and staff at Sussex I State Prison.

**Indicator b).** OP 038.3 defines the different steps that should be implemented to ensure the safety of victims or individuals who cooperate in the investigation. “Multiple measures are available to protect staff and offenders from retaliation; such measures include housing changes or transfers for offender victims or abusers, removal of alleged staff or offender abusers from contact with victims, and emotional support services for offenders and staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations.” Interview with agency and facility leadership confirms the agency’s commitment to ensure client safety who file a PREA complaint. The Auditor confirmed with individuals that the PREA Compliance Manager does come to the units and checks in with them. The Auditor was able to review two years of monitoring documentation.

**Indicator c).** Consistent with the standard expectation the DOC policy requires monitoring to be for at least 90 days. The Policy states “For at least 90 days following a report of sexual abuse, the PREA Compliance Manager or other designated facility staff will monitor the conduct and treatment of offenders and staff who reported sexual abuse or cooperated with a sexual abuse investigation, and of offenders who were reported to have suffered sexual abuse to see if there are changes that may suggest possible retaliation by offenders or staff, and will act promptly to remedy any such retaliation. a. Items to be monitored include any offender disciplinary reports, housing, or program changes, or negative performance reviews or reassignments of staff. b. The PREA Compliance Manager must



continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need. 2. In the case of offenders, such monitoring will also include periodic status checks.” The Auditor confirmed with the PREA Compliance Manager the requirements of this indicator. The supporting documentation in the retaliation monitoring forms shows that the monitoring’s continued for periods of at least 90 days unless the inmate had left the facility.

**Indicator d).** As noted in indicator c) the monitoring will include periodic status checks. Interviews with Inmates confirm the facility PREA Compliance Manager did come and check in with the individuals regularly and she continued to offer to arrange mental health services even if they had initially refused such support.

**Indicator e).** As noted in indicator b), the protection measures would include steps taken to protect staff who cooperate in an investigation on PREA. The Agency policy OP 075.7 Critical Incident Peer Support Team defines additional staff supports available to staff. The Policy states “Employees who fear retaliation for reporting or cooperating with investigations into sexual abuse or sexual harassment and are in need of or request emotional support services should be referred to the Employee Assistance Program (EAP)”.

**Indicator f).** The Auditor is not required to consider this indicator

**Compliance Determination:**

The Auditor was provided with a policy that matches the standard expectations. The documentation provided showed the process described in the policy has been operationalized. Interviews with the Director of the Department of Corrections and the Warden support the expectation of protecting individuals from retaliation. The Auditor confirmed with inmates who had previously made PREA complaints that the PREA Compliance Manager checks in with them. The Auditor also took into consideration that most inmates spoken to confirm they have routine access to the PREA Compliance Manager and support she routinely tours the facility. The PREA Compliance Manager was aware of the expectations in monitoring for retaliation. The Auditor took into consideration policies, supporting documentation, interviews with agency and facility administration, with PREA Compliance Manager, and with inmates. The culmination of these factors supports compliance with the standards expectations.

## Standard 115.68: Post-allegation protective custody

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

### 115.68 (a)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

#### **Policies and written/electronic documentation reviewed.**

OP 425.4 Management of Bed and Cell Assignment  
OP 830.5 Transfers and facility reassignments  
Sexual Abuse/Sexual Harassment Available Alternatives Assessment

#### **Individuals interviewed/ observations made.**

Warden  
PREA Coordinator  
Staff on Segregation Unit

#### **Summary determination.**

**Indicator a).** In interviews with the Warden, he reported it is not the practice of the facility to place victims of sexual abuse in protective custody against their will. The facility has options for moving inmate who has conflict internally or with the support of the DOC classification options including transfer can be assessed. The DOC policy allows for placement if there is no other option. In making this consideration the facility is required to document its efforts on a form called Sexual Abuse/Sexual Harassment Available Alternative Assessment. A review of policy OP 425.4 Management of Bed and Cell Assignment indicated the requirement of all offenders identified as an alleged victim of sexual abuse (HRSV) shall be checked to determine the need for continued separation from the general population. The policy states "Offenders identified as HRSV or offenders alleged to have suffered sexual abuse or sexual harassment will not be placed in the restrictive housing unit without their consent unless an assessment of all available alternatives has been made, and it has been determined by the QMHP in consultation with the Shift Commander and Regional PREA Analyst that there are no available alternative means of separation from likely abusers."

Similarly, policy OP 830.5 Transfers, Facility Reassignments requires that inmates alleged to have suffered sexual abuse should not normally be placed in segregation or specialized housing without their consent unless it has been determined that there are no available alternative means of separation from likely abusers. The Facility Classification team must complete the assessment of alternative housing options before placing the individual in involuntary segregation. The policy goes on to state this assignment to segregation/restrictive housing shall not ordinarily exceed a period of 30 days.

#### **Compliance Determination:**

The Sussex I State Prison has not utilized segregated housing units to protect inmates from sexual abuse. The Auditor confirmed this has not occurred with the Warden and the staff working on the unit.

Though the DOC has a policy in place consistent with the standard requirements it shows at both the facility and state level that it is the last solution. The agency's PREA Coordinator is kept aware of any individual placed in involuntary segregation for risk of sexual victimization. The Policy requires notification by facility staff to the regional PREA Analyst. Based on the review of the agency policy, observations, and information obtained through staff interviews and review of documentation, the Auditor has determined the facility is compliant with standard expectations.

## INVESTIGATIONS

### Standard 115.71: Criminal and administrative agency investigations

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

#### 115.71 (a)

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

#### 115.71 (b)

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

#### 115.71 (c)

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

#### 115.71 (d)

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

#### 115.71 (e)

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

#### 115.71 (f)

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

#### 115.71 (g)

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

#### 115.71 (h)

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

#### 115.71 (i)

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

#### 115.71 (j)

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

#### 115.71 (k)

- Auditor is not required to audit this provision.

#### 115.71 (l)

- When an outside entity investigates sexual abuse, does the facility cooperate with outside investigators and endeavor to remain informed about the progress of the investigation? (N/A if

an outside agency does not conduct administrative or criminal sexual abuse investigations. See 115.21(a).  Yes  No  NA

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

#### **Policies and written/electronic documentation reviewed.**

Policy OP 038.3 Prison Rape Elimination Act  
Policy OP 030.4 Special Investigations Unit  
Sexual Assault Response Plan  
Investigative matrix  
SIU and VOD Investigator Trainings  
Warden Memo on Investigations referred for prosecution

#### **Individuals interviewed/ observations made.**

Interview with Agency PREA Coordinator  
Interview with Regional PREA Analyst  
Interview with PREA Compliance Manager  
Interview with Warden  
Interview with an Investigative Staff

#### **Summary Determination**

**Indicator (a)** Virginia Department of Corrections has trained law enforcement staff and as such, the agency is responsible for both criminal and administrative investigations. In policies, OP 038.3 and 030.4 the agency set forth the responsibilities of the investigative team including the need for a prompt thorough investigation of the facts and a complete report outlining the processes undertaken, the reasoning behind the findings. Policy states "All investigations into allegations of sexual abuse and sexual harassment shall be done promptly, thoroughly, and objectively for all allegations, including third-party and anonymous reports." The facility investigator will make an initial assessment of the situation. "Unless the facility investigator quickly and definitively determines that the allegation is unfounded, allegations of sexual abuse or sexual harassment shall be referred for investigation to the DOC Special Investigations Unit who has the legal authority to conduct criminal investigations " Random staff interviewed supported they must report all claims no matter the source or if they believe the incident to have occurred.

**Indicator (b)** As noted in 115.34 the Virginia DOC has some 19 approved criminal investigators. SISP has had its Intelligence Unit staff who would be required to respond to sexual assault complaints complete the NIC training on Investigation Sexual Abuse in a Correctional Setting.

**Indicator (c)** Investigative staff interviewed, inmates who were part of an investigation confirmed, and investigative files reviewed supported the requirements of this indicator. The SIU Investigator and Intelligence Unit members for SISP know how to collect evidence from a crime scene to ensure the preservation of evidence including DNA. Line staff are also trained on trying to preserve evidence including locking of potential crime scenes and encouraging the victim to not do anything that would potentially degrade the quality of the DNA evidence. As noted in 115.21 forensic exams of the victim would not occur at SISP but at a local hospital with SANE trained nurses. The investigation file also confirms the interview of the victim, alleged perpetrator, and witness are done routinely as part of the investigation. The investigation policy (030.4 page 11) states "Investigators shall gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data; shall interview alleged victims, suspected perpetrators, and witnesses; and shall review prior complaints and reports of sexual abuse involving the suspected perpetrator."

**Indicator (d)** The investigator supports that individuals can complete compelled interviews and that they would work closely with the local prosecutor on the case. Policy 030.4 describes the expected interactions with the prosecutorial authorities (page 11). "When the quality of evidence appears to support a criminal prosecution, the agency shall conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution." In reviews with the Auditor, the Investigator discussed where cases were shared with the prosecutor.

**Indicator (e)** The investigator interviewed confirmed that there is no requirement for a victim to undergo any polygraph or other truth-telling process to proceed with an investigation. The Investigator confirmed in the discussions with the Auditor what policy requires (030.4). "The credibility of an alleged victim, suspect, or witness shall be assessed on an individual basis and shall not be determined by the person's status as an inmate or staff. No agency shall require an inmate who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an allegation."

**Indicator (f)** All criminal investigations potentially can include a referral for an administrative review if the evidence supports that a staff person's actions or inactions led to an inmate on inmate sexual assault. Administrative investigations into sexual harassment claims or other staff actions in sexual misconduct investigations can result in a discipline outside of termination. All administrative investigations that are completed are required to have a related investigation file which includes written or oral statements, video or other physical evidence, and the reasoning behind the conclusions reached

**Indicator (g)**. All criminal investigations completed by the SIU investigator result in a written report as required in the agency's related policies. The investigative files reviewed by the Auditor included documentation of interviews, physical evidence, and videos or other documents reviewed as part of the investigatory process. All files also have an investigation checklist to allow tracking of information obtained.

**Indicator (h)** Agency policy requires all criminal acts to be referred for criminal prosecution. Policy 030.4 Special investigations Unit (page 11) states When the quality of evidence appears to support a criminal prosecution, the agency shall conduct compelled interviews only after consulting with



prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution. “ This expectation was confirmed in the interviews with investigative staff.

**Indicator (i)** The Virginia Department of Correction’s record retention requires a greater retention period than 5 years beyond the separation of the parties from the institution. This was confirmed through the investigator’s interview. Policy O38.3 defines the requirements consistent with the standard “All sexual abuse data collected must be maintained for at least 10 years after the date of the initial collection unless Federal, State, or local law requires otherwise.”

**Indicator (j)** Agency policy and the Investigators interviewed confirmed individuals’ departure from the institution would not result in the case being closed. The investigation policy states, “The departure of the alleged abuser or victim from the employment or control of the facility or agency shall not provide a basis for terminating an investigation.” The SIU Detective for SISP is a trained law enforcement officer as defined by the state of Virginia, with full police authority to go outside the institution to continue to pursue information related to the case.

**Indicator (k)** Auditor is not required to audit this provision.

**Indicator (l)** This indicator does not apply as noted above; the Virginia DOC has full authority to complete criminal investigations in its facilities.

#### **Compliance Determination.**

The Virginia Department of Corrections requires all incidents are investigated promptly upon notification to staff. The agency’s PREA policy and Investigative policy, require prompt investigations of sexual abuse and sexual harassment in VA DOC facilities. In determining compliance, the Auditor took into consideration many factors. The Sussex I State Prison and the VA DOC have sufficient and appropriately trained individuals who can complete sexual assault investigations. Virginia DOC investigates all potential sexual related incidents as possible PREA events even if the inmates report the actions were consensual. Files reviewed include staff reports, inmate reports, and third party reports of potential sexual misconduct. In doing so they ensure all incidents are investigated, evidence collected, which provides an opportunity for a reluctant victim to come forward later. In the Auditor’s interview, the investigative staff was able to identify the steps taken to gather evidence, how the credibility of the various persons involved is determined on an individual basis, and that polygraph exams would not be required for the initiation of an investigation. Consistent with policy, it was stated investigative reports will be completed on all administrative and criminal investigations. As part of the audit process, the Auditor reviewed 15 investigative files from incidents at SISP in 2019 and 2020. The Auditor found consistent reports with physical, testimonials, and documentation of evidence used in determining the outcome. In determining compliance, the Auditor considered the stated information found in policy and actual investigative files as well as interviews with the investigative staff and inmates who had been involved in the investigations.

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

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

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

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

#### Policies and written/electronic documentation reviewed.

Policy OP 135.2 Rules of Conduct

#### Individuals interviewed/ observations made.

Interview with Investigator

#### Summary determination.

**Indicator (a)** Virginia DOC Policy OP 135.2 Rules of Conduct states, "A preponderance of the evidence will be adequate in determining whether allegations of sexual abuse or sexual harassment are substantiated" This standard was confirmed by the facility investigator.

#### Compliance Determination

The Department of Corrections has several staff trained in the investigation of Sexual Assaults at the state correctional facilities, as noted in 115.34. The Detective reviewed PREA case files with the Auditor and described the process for a criminal case and the process for an administrative investigation. Compliance was based on the policy and the interview with the Investigative Officer

## Standard 115.73: Reporting to inmates

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

#### 115.73 (a)

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

**115.73 (b)**

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

**115.73 (c)**

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

**115.73 (d)**

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

**115.73 (e)**

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

**115.73 (f)**

- Auditor is not required to audit this provision.

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

#### **Policies and written/electronic documentation reviewed.**

OP 030.4 Special Investigations Unit  
OP 038.3 Prison Rape Elimination Act  
Investigation files

#### **Individuals interviewed/ observations.**

Interview with the Criminal Investigator  
Interview with the PREA Compliance Manager  
Interview with Inmates who had made PREA Complaints

#### **Summary determination.**

**Indicator (a)** Virginia DOC provides notification to all inmates on the outcome of their investigations into sexual misconduct. The agency policy OP 030.4 Special Investigations Unit page 11 requires "Upon completion of the investigation, SIU should report to the Facility Unit Head to inform the offender as to whether the allegation has been determined to be substantiated, unsubstantiated or unfounded. Interview with the Criminal Investigator supports that she comes to one of these three conclusions in all sexual abuse or sexual harassment cases. At Sussex I State Prison the outcome of all investigation is reported to the inmate by the investigator or the facility PREA Compliance Manager.

**Indicator (b)** This indicator does not apply as Virginia DOC completes criminal and administrative investigations at all DOC facilities.

**Indicator (c)** The policy OP 038.3 Prison Rape Elimination Act uses language consistent with this standard indicator to define the information that must be notified to the inmate victim. The policy states ". Following an offender's allegation that a staff member committed sexual abuse against the offender, the PREA Compliance Manager or investigator must subsequently inform the offender whenever:

- i. The allegation has been determined to be unfounded

- ii. The allegation has been determined to be unsubstantiated
- iii. The staff member is no longer posted within the offender's unit
- iv. The staff member is no longer employed at the facility
- v. The DOC learns that the staff member has been indicted on a charge related to sexual abuse within the facility
- vi. The DOC learns that the staff member has been convicted on a charge related to sexual abuse within the facility." The Auditor was provided examples of cases from the past 18 months of notifications made to inmates at Sussex I State Prison.

**Indicator (d)** The policy language in OP 038.3 covers the required notification for an inmate on inmate sexual abuse cases. "Following an offender's allegation that they have been sexually abused by another offender, the PREA Compliance Manager or investigator must subsequently inform the alleged victim

whenever:

- i. The allegation has been determined to be unfounded
- ii. The allegation has been determined to be unsubstantiated
- iii. The DOC learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility
- iv. The DOC learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility

The Auditor was provided examples of investigation outcome notification made by the PREA Compliance Manager. By practice, the Sussex State Prison notify inmates in writing on the outcome of both sexual abuse cases and sexual harassment cases.

**Indicator e).** The Sussex I State Prison provides each inmate a written letter on the outcome of their investigation. The letter explains what the words substantiated, unsubstantiated and unfounded mean. Each inmate is asked to sign for the letter so there is documentation of the inmate being made aware of the findings. Random inmates confirmed they had received a letter on the outcomes.

**Compliance Determination:**

The Auditor was able to review documents in investigative files that support inmate notifications occur. The Auditor reviewed 15 sexual abuse and Sexual Harassment allegation to confirm the inmates are notified of investigation outcomes. The document supports the ability to notify them also when staff or inmate perpetrators are no longer at the facility and when there are inditement and convictions. Clients interviewed who had made PREA allegations confirmed they were notified of the outcome. The Auditor finds the facility in compliance with the standard, based on policy, the documentation, interviews with the Criminal investigator, the PREA Compliance Manager, and the inmate who had previously filed PREA allegations.

## DISCIPLINE

### Standard 115.76: Disciplinary sanctions for staff

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

**115.76 (a)**

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

#### 115.76 (b)

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

#### 115.76 (c)

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

#### 115.76 (d)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

#### Policies and written/electronic documentation reviewed.

OP 135.1 Standards of Conduct

OP 135.2 Rules of Conduct governing Employee Relationships with Offenders

Warden Memos

**Individuals interviewed/ observations made.**

Interview with Human Resources  
Interview with Warden  
Interview with Criminal Investigator

**Summary determination.**

**Indicator a).** The Virginia Department of Correction has policies that govern staff conduct and sanctions for violation. OP 135.2 Rules of Conduct governing Employee Relationships with Offenders (page 5) states: "Sexual misconduct will be treated as a Group III offense subject to disciplinary sanctions up to and including termination under Operating Procedure 135.1, Standards of Conduct." As the Auditor has learned Group III violations are considered the most serious offenses. Human resource staff confirmed that staff can be terminated for such actions

**Indicator b).** The DOC policy OP 135.2 goes on to state "Termination will be the presumptive disciplinary sanction for employees who have engaged in sexual abuse." As noted in indicator a) the Auditor confirmed with the Human resources staff that employees will be terminated for engaging in the sexual abuse of an inmate. There were no incidents of staff being terminated in the last 18-months from Sussex I State Prison for sexual abuse of an inmate. The policy also states that staff who engage in sexual acts with inmates will be charged with a felony in addition to the termination.

**Indicator c).** The DOC policy OP 135.5 states "Disciplinary sanctions for violations of DOC policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) will be commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories" The Warden reports there have been no incidents of staff who have been disciplined for sexual harassment of inmates.

**Indicator d).** All terminations for violations of VA DOC sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, are reported to law enforcement agencies. As noted in 115.71 the Sussex I State Prison has access to a criminal investigator who is considered law enforcement in the state of Virginia with full powers of arrest. The SIU Criminal Investigator confirmed she has the power to pursue the investigation outside the institution if an inmate has been released or if a staff person quits before being terminated. The facility administration confirmed that staff or contractors who have licenses will have the misconduct reported to the governing body responsible for their licenses.

**Compliance Determination:**

The Virginia Department of Corrections has in place the appropriate resources to fully investigate staff sexual misconduct and apply discipline when deemed warranted. The agency has in place the ability to terminate staff for first offenses of sexual abuse of inmates. Policies in place and interviews with the Human Resource staff, the Criminal Investigator, and the Warden were used to determine compliance. Since the facility has not disciplined a staff there was no file to review.

**Standard 115.77: Corrective action for contractors and volunteers****All Yes/No Questions Must Be Answered by the Auditor to Complete the Report****115.77 (a)**



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

### 115.77 (b)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

#### **Policies and written/electronic documentation reviewed.**

OP 027.1 Volunteer and Internship Program  
 OP 135.2 Rules of Conduct Governing Employee Relationships with Offenders  
 Memos from the Warden  
 Contractor and Volunteer Orientation

#### **Individuals interviewed/ observations.**

Interview with Criminal Investigator  
 Interview with PREA Compliance Manager  
 Interviews with Contractors/Volunteers

#### **Summary determination.**

**Indicator a).** The Virginia Department of Corrections has trained contractors and volunteers on the consequences of engaging in sexual abuse or sexual harassment of an inmate. Interviews completed with both contractors and volunteers support they were aware of the standard of conduct including that

individuals who engage in such misconduct can be immediately barred from access to the institution and may be referred for criminal prosecution based on the type of misconduct. Agency policies OP 027.1 and OP 135.2 states “Any contractor or volunteer who engages in sexual abuse of offenders must be prohibited from contact with offenders and must be reported to any relevant licensing bodies by the DOC PREA Coordinator, and law enforcement agencies unless the activity was clearly not criminal. The DOC will take appropriate remedial measures and will consider whether to prohibit further contact with offenders, in the case of any other violation of DOC sexual abuse or sexual harassment policies by a contractor or volunteer. The Criminal Investigator confirmed as noted in 115.71 if the contractor or volunteer is a licensed professional the governing body would be notified.

**Indicator b).** As noted in indicator a) non-criminal violations of the agency’s standard of conduct would have to be reviewed by facility management before allowing the individual to regain access to the facility. Policy on volunteer and interns OP 027.1 (page 12) stated “In the event of any other violation of agency sexual abuse or sexual harassment policies by a volunteer the facility shall take appropriate remedial measures, and shall consider whether to prohibit further contact with offenders.” There have been no allegations against any contractor or volunteer in the past 18 months that would require

**Compliance Determination:**

The Auditor finds the standard has been met. The Virginia Department of Corrections has sufficient policies to ensure if a victim or contractor engages in sexual misconduct the case will be investigated, the inmate will be protected by halting the alleged perpetrator access to the facility, and notifications to the appropriate licensing bodies. The facility staff is aware of the importance of removing alleged abusers from access to the victim. Supporting the information provided, the Auditor took into consideration the training and interviews with volunteers who were aware of the consequence of engaging in sexual harassment or sexual abuse of inmates. The individuals spoke with understood that individuals could be banned from access and risk prosecution based on the type of misconduct engaged in.

## Standard 115.78: Disciplinary sanctions for inmates

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

#### 115.78 (a)

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

#### 115.78 (b)

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

#### 115.78 (c)

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

#### 115.78 (d)

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

#### 115.78 (e)

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

#### 115.78 (f)

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

#### 115.78 (g)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

#### Policies and written/electronic documentation reviewed.

OP 038.3 Prison Rape Elimination Act

OP 820.2 Reentry Planning  
OP 830.3 Good Time Awards  
OP 861.1 Offender Discipline, Institutions and Operating Procedures  
Disciplinary Hearing records

**Individuals interviewed/ observations made.**

Interview with the Regional PREA Analyst  
Interview with the Warden  
Interview with the PREA Compliance Manager

**Summary determination.**

**Indicator a).** OP 038.3 Prison Rape Elimination Act states “Sexual harassment, assault, and abuse by incarcerated offenders is prohibited and subject to disciplinary action per Operating Procedure 861.1, Offender Discipline, Institutions, and Operating Procedure 940.4, Community Corrections Alternative Program, and may result in criminal charges.”

**Indicator b).** Sanctions for inmate in the institution are required to be similar to other inmates with similar histories. Policy OP 861.1 Offender Discipline, Institutions and Operating Procedures states “In determining the appropriate penalty, consideration shall be given to the nature and circumstances of the offense committed, the offender’s disciplinary history, and the penalty imposed for comparable offenses committed by other offenders with similar histories.”

**Indicator c).** In policy OP 861.1 it defines steps required to be taken if the inmate who is the potential subject of discipline had a mental disability or illness. The policy defines the step the committee must take before having a discipline hearing. Action include having the inmates case reviewed by a Qualified Mental Health Professional (QMHP) who can provide clinical impression on the client, the ability to understand their actions or the hearing process, and how actions such as specialized housing may impact their institutional stay.

**Indicator d).** Client at SISF can receive individualized counseling toward the underlying causes of their sexual misconduct. The facility does not have a specific program for sexual offenders, those service reportedly are more available as the inmate transfers to a lower level custody facility.

**Indicator e)** Agency policy does not allow for the discipline of inmates who engage in sexual contact with a staff member unless it is proven the staff did not consent..

**Indicator f)** OP 038.3 defines when an inmate can and cannot be disciplined for filing a PREA complaint in bad faith. The policy state “ Any offender who makes a report of offender-on-offender sexual violence or staff sexual misconduct or harassment that is determined to be false may be charged with a disciplinary offense if it is determined in consultation with the Regional PREA Analyst that the report was made in bad faith. Offenders will not be charged for reports of sexual abuse made in good faith, based upon a reasonable belief that the alleged conduct occurred. Even if an investigation does not establish sufficient evidence to substantiate the allegation, reports of sexual abuse made in good faith will not constitute falsely reporting an incident or lying.” There have been no cases in the last year. Agency policy (OP 861.1) describes the process to ensure only those reports purposefully filed in bad faith are disciplined. “Due to the sensitive nature of this offense, it is important that it is handled with utmost caution and fairness to avoid hindering the offender's right to file complaints against employees. The purpose of this offense is to prevent offenders from fabricating charges against corrections employees. Before this offense can be brought, there must be an investigation by an impartial third party to determine that there are any facts that could substantiate the statement or

charge. The investigation should include, but is not limited to, interviewing the offender who made the allegation and the employee who is the subject of the allegation”

**Indicator g)** Sussex I State Prison does not allow consensual sexual contact between inmates. Inmates spoken with understood that such behavior may result in disciplinary actions. OP 038.3 the PREA policy states “Consensual sexual activity among offenders is prohibited. Offenders who engage in this type of activity will be subject to disciplinary action in accordance with Operating Procedure 861.1 Offender Discipline”.

**Compliance Determination:**

The Virginia Department of Corrections and the Sussex I State Prison have in place systems for holding individuals accountable for sexual misconduct. The policies require the disciplinary committee to consider factors on the inmate’s mental health and cognitive capacities. The facility has had limited incidents in the last year that resulted in a formal discipline for the Auditor to review. The agency staff interview and policy language support the use of discipline around false reporting of PREA incidents is done in a cautious manner to not impact the overall population's willingness to report incidents. Compliance determination was based on interviews, policies, and supporting documents reviewed.

**MEDICAL AND MENTAL CARE**

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

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

**115.81 (a)**

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

**115.81 (b)**

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

**115.81 (c)**

- If the screening pursuant to § 115.41 indicates that a jail inmate has experienced prior sexual victimization, whether it occurred in an institutional setting or in the community, do staff ensure

that the inmate is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening?  Yes  No

#### 115.81 (d)

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

#### 115.81 (e)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

#### **Policies and written/electronic documentation reviewed.**

OP 425.4 Management of Bed and Cell Assignments  
OP 701.3 Health Records  
OP 730.2 MHS Screening, Assessment, and Classification  
Classification Records  
Medical and Mental Health Records  
Memo from the Warden

#### **Individuals interviewed/ observations.**

Interviews with Medical Professionals  
Interview with Mental Health Professional  
Interviews with Random Inmates

#### **Indicator Summary Determination**



**Indicator (a)** Inmates who identified through the screening process or who admit a history of sexual trauma can be referred to either Armor Mental Health Services or the local rape crisis agency. The Auditor confirmed this practice through the review of documented cases in client files and interviews with inmates and Mental health and case management staff. DOC policy OP 730.2 MHS Screening, Assessment and Classification (page 6) sets forth the requirement to refer all individuals who are admitted with past histories of sexual assault or Sexual victimization to mental health who will follow up within 14 days. Policy states “In institutions, within 14 days of completion of the Classification Assessment, the QMHP will notify those offenders, identified as HRSA or HRSV, of the availability for a follow-up meeting with a mental health practitioner and inform the offender of available relevant treatment and programming. Notification will be documented on the Prison Rape Elimination Act (PREA) QMHP Follow-Up form. Cases reviewed supported follow-up occurring within the required timeframes.

**Indicator (b)** Inmates who engage in sexual assault or have a history of sexual offenses are automatically referred to Mental Health for an assessment. Sussex I State Prison has mental health professionals who can provide individual services to individuals with sexual offense histories. The DOC tool as discussed in standard 115.41 which identifies perpetrating behaviors. The Department has a dedicated treatment program for individuals with sexual offense histories in lower-level facilities an inmate can earn his way to.

**Indicator (c)** As noted in indicator (a) inmates with prior victimization history be it in an institution or in the community are to be seen by the appropriate medical/ mental health provider to ensure the unit team has sufficient information to plan for the client’s needs in the first 14 days. The DOC requires the PREA reassessment to be completed by this date. The mental health staff confirmed that the inmate is offered services. The SISF can offer ongoing mental health services to individuals with victimization histories. As part of corrective measures in 115.42, all staff were refreshed on the support services available to victims through the Action Alliance.

**Indicator (d)** The Auditor confirmed through interviews with intake staff, case management staff, medical staff, mental health staff, unit management, and the PREA Coordinator that sensitive information is protected. Custody staff does not have access to information in the medical or mental health records of Armor. Information obtained and documented in VACORIS is also limited in access to those individuals who need to know. Through the unit management process line staff are provided only the specific information about who may be a potential or known victim or perpetrator. The Health Service Administrator provided information on Armor’s efforts to ensure the confidentiality of information that could be used against an inmate. Inmates interviewed supported that information given to counseling staff is kept confidential. Doc policy OP 730.2 states “Any information related to sexual victimization or abusiveness that occurred in an institutional setting will be strictly limited to medical and mental health practitioners and other staff, as necessary, to inform treatment plans and security and management decisions, including housing, bed, work, education, and program assignments, or as otherwise required by Federal, State, or local law.”

**Indicator (e)** All inmates sign, with Armor staff, an understanding of the limits of confidentiality as it relates to criminal behaviors. Inmates interviewed confirmed both they had signed acknowledgment forms and they verbally understood the reasons why a medical or mental health staff must disclose actual sexual abuse or imminent risk situations. The Auditor reviewed 12 files to ensure the practice is being met. Inmate interviews support they understand the limitations on the confidentiality of information shared to medical or qualified mental health professionals.



**Conclusion:** All inmates are screened when they arrive at the Sussex I State Prison. Inmates are seen by medical and mental health staff and the screening process is reviewed in a Unit Management team meeting within 14 days of admission. Inmates with sexual assault histories and sexual victimization histories are offered treatment. Inmates who are admitted to SISP are seen by Armor Medical and Mental Health staff. In addition to the DOC PREA screening, the Armor staff have several intake questions that are PREA related. The secondary questioning allows inmates who did not disclose concerns at admission a second opportunity to disclose in a medical environment. Inmate medical and mental health records are not accessible to the custody staff. VACORIS, the DOC electronic case management system, has access controls and similarly, the Armor Electronic Medical Records (EMR) limits access to the most vulnerable information protecting the inmates from having information exploited. Supporting documentation provided to the Auditor showed how medical or custody staff informs Mental Health who follows up on any disclosure of sexual abuse or victimization histories. Compliance was based on policy, the documentation provided showing referrals for treatment follow-up, within 14 days, the security of records, interviews, and information provided on tours by the Medical and Mental Health staff.

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

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

### 115.82 (a)

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

### 115.82 (b)

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

### 115.82 (c)

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

### 115.82 (d)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

#### **Policies and written/electronic documentation reviewed.**

Policy – OP 038.3 Prison Rape Elimination Act  
 Policy –OP 075.1 Emergency Operations Plans  
 Policy – OP 720.4 Co-Payment for Healthcare  
 Policy – OP 720.7 Emergency Medical Equipment Care  
 Policy – OP 730.2 MHS Screening Assessment and & Classification  
 Investigative Files  
 Offender Medical Records  
 Sexual assault checklist  
 Memo from Warden

#### **Individuals interviewed/ observations made.**

Interviews with Medical professionals  
 Interview with Sexual Assault Nurse Examiner  
 Interviews with First Responders

#### **Indicator Summary Determination**

**Indicator (a)** The Sussex I State Prison has a full-service medical clinic that operates around the clock. Registered Nurses are always available and there is after-hours availability of on-call medical and mental health practitioners. The services are diverse and consistent with community health clinics. Inmates report access to these services if they are in crisis. Medical staff report having medical autonomy if the inmate must go out of the building for emergency services to facilitate that trip. The Armor medical staff state the facility administration is supportive of the work they do, and they work to resolve issues when they arise. In the event of a sexual assault, inmates at SISF would go to Virginia Commonwealth University Medical Center which has SANE trained nurses and availability of support from both in-house trained advocates or local rape crisis agencies.

**Indicator (b)** Medical services are available 24 hours per day at the VCU Medical Center. Random staff knew as part of their first responder duties, that immediate notification to medical was required. This is also stated in the facility's Sexual Assault Response plan. DOC policy OP 038.3 Prison rape Elimination Act (page 10) states "If there are no qualified medical or mental health practitioners on duty at the time a report of sexual assault or sexual abuse is made, the OIC must immediately notify the facilities designated medical and mental health practitioner." An interview with the medical administrator confirms that if a practitioner is not on-site they will be contacted by the medical team.

**Indicator (c)** Discussions with both Hospital staff and facility medical staff confirmed that sexual assault victims would be offered prophylaxis medications and emergency contraception. The Auditor confirmed the same medications would be offered to the inmate again upon return from a forensic exam even if they initially denied it. Medical staff confirmed they would educate the inmate on the importance of such medications for continued health.

**Indicator (d)** The Auditor confirmed that medical services related to sexual assault victims are provided without cost. Policy OP 720.7 Emergency Medical Equipment and Care (page 8) states "Treatment services will be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident". The clinic at SISP would function as the aftercare by providing follow up care medically and ensuring mental health services are offered.

#### **Compliance Determination:**

Virginia Department of Corrections can quickly respond to and provide emergency care and referral to a local hospital for forensic services. Each DOC facility's response plan for PREA incidents outlines the steps taken to ensure access to care. The Sussex I State Prison has on-site medical nursing staff 24 hours per day. The facility also has on-call providers that can help to facilitate the referral to an outside medical provider. Armor Correctional Health Service and Virginia DOC will follow the requirements as outlined in several policies. The confirmed SAFE or SANE capabilities are available at the Virginia Commonwealth University Medical Center approximately 55 miles away in Richmond VA. As part of the audit process, the Auditor spoke to a hospital representative to confirm the access to SANEs and the services provided to victims of sexual assault. There is no financial cost to any inmate in DOC this was confirmed not only with hospital staff but with an inmate who was taken out for a forensic exam. The hospital staff confirmed they follow the protocols of the International Association of Forensic Nurses which support they offer victims HIV testing, prophylaxis treatments for STD, and emergency contraception if the inmate was female. Compliance determination took into consideration the access to services, Armor Correctional Health Services, and Virginia DOC policies, information from the interviews completed and inmate victims' file information.

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

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

**115.83 (a)**

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

**115.83 (b)**

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

**115.83 (c)**

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

**115.83 (d)**

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

**115.83 (e)**

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

**115.83 (f)**

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

**115.83 (g)**

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

**115.83 (h)**

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

**Auditor Overall Compliance Determination**

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

### Instructions for Overall Compliance Determination Narrative

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

#### **Policies and written/electronic documentation reviewed.**

Policy – 720.4 Co-Payment for Health Care Services  
 Policy – 720.7 Emergency Medical Equipment and Care  
 Policy – 730.2 MHS Screening Assessment and Care  
 Review of Medical Records  
 Memo from Warden

#### **Individuals interviewed/ observations made.**

Interviews with Medical Professionals  
 Interviews with Mental Health Professional  
 Interview with SANE  
 Interviews with Inmate

#### **Indicator Summary Determination**

**Indicator (a)** The Virginia Department of Corrections ensures that all inmates are provided with the appropriate level of medical and mental health services for any issues of sexual abuse. Armor Correctional Health Services staff will provide the appropriate level of care depending on how long ago the abuse occurred. If the incident has occurred recently the inmate will be offered a forensic exam at the VCU Medical Center. If the incident is a prior life event that occurred in another institution or in the community the medical and mental health teams will complete a health assessment and mental health referral for services. If the inmate is more comfortable discussing the abuse with a rape crisis agency staff person a mental health referral can be made to Action Alliance to provide appropriate level of supportive counseling.

**Indicator (b)** Inmates who are victims of sexual assault in a Virginia correctional institution are immediately referred to mental health services as well as medical services. Even if the assault occurred in the community or at a county jail; the inmate, once identified, is referred to Armor mental health staff for follow-up services. If the inmate prefers, they can be referred to Action Alliance for support services post an incident of sexual misconduct. The Armor Medical and Mental Health staff spoken to confirmed, as did the Action Alliance representative, that they would make referrals to ensure continuity of care if the inmate were released home or transferred to another facility.

**Indicator (c)** As noted in indicator (a) the medical clinic at the Sussex State Prison is equivalent to an urban community medical clinic. The facility offers a full array of medical and mental health services including dental and vision. The infirmary addresses the needs of illnesses associated with the wide

age range at SISP. The facility provides mental health services including counseling, medication management, and when needed, the extra support of the mental health unit or direct observation room in the clinic space. A related example supporting care is equivalent to community level was observed not only in the clinic which included infirmary beds, several exam rooms, and a full dental clinic but in the industry area of SISP. The Auditor was also able to see how inmate workers at SISP take painstaking care in making dentures for inmates across the DOC system in a controlled denture lab.

**Indicator (d)** The Indicator does not apply as Sussex I State Prison is an all-male institution.

**Indicator (e)** The Indicator does not apply as Sussex I State Prison is an all-male institution.

**Indicator (f)** The Auditor confirmed with both, the medical staff at SISP and the representatives of the VCU Medical Center used by SISP, that victims of sexual assault are offered testing for sexually transmitted diseases. This testing is provided free of charge consistent with agency policy. The Auditor was provided information that no inmates required any follow up services for possible sexually transmitted diseases.

**Indicator (g)** Treatment services are provided to victims of sexual abuse without cost to the inmate including if the inmate must go out for a forensic exam. Policy OP 720.7 Emergency Medical Equipment and Care (page 9) states “Treatment services will be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident”.

**Indicator (h)** All individuals involved in a sexual assault, both the victim and perpetrator, are referred for mental health assessments if the individual chooses not to speak to Armor staff they can also be referred to the local rape crisis agency, Action Alliance. Action Alliance can coordinate phone support for victims and work with the facility and the nearest rape crisis organization to be able to provide on-site support in a non-pandemic period. COVID-19 has limited some outside services from being able to come to the facility.

**Compliance Determination:**

The Virginia Department of Corrections ensures inmates have ongoing access to services. The DOC has several policies that address the healthcare needs of inmates including services available to victims of sexual abuse. The Auditor reviewed the policies and found several references that address standard indicators along with information from the PREA policies. Armor Correctional Health Services, the DOC health services provider would provide follow up medical and mental health services for victims of sexual assault or perpetrators of sexual offenses. Armor would ensure that all medical needs and follow up treatment was provided after an initial referral to VCU Medical Center in Richmond for a forensic exam. Medical staff confirmed that they could educate inmates about the importance of testing and prophylactic treatment if they initially refused these treatments at the hospital. Compliance is based on policy consistent with the standard, the resources available on-site and identified hospital, the interviews with medical and mental health staff as well as interviews with representatives of Action Alliance and an inmate victim.

## DATA COLLECTION AND REVIEW

### Standard 115.86: Sexual abuse incident reviews



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

### 115.86 (a)

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

### 115.86 (b)

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

### 115.86 (c)

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

### 115.86 (d)

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

### 115.86 (e)

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

## Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

#### **Policies and written/electronic documentation reviewed.**

Policy – 038.1 Reporting Serious and Unusual Incidents

Policy – 038.3 Prison Rape Elimination Act.

Investigation Files

PREA Report of Incident Review

#### **Individuals interviewed/ observations.**

Interviews with Incident Review Member

Interview with PREA Manger

Interviews with DOC Director

Interview with facility Warden

#### **Indicator Summary Determination**

**Indicator (a)** Policy OP 038.1 Reporting Serious and Unusual Incidents (pages 10-12) sets forth the requirement of an incident review on all cases of sexual misconduct unless the investigation has determined the allegation was unfounded. The policy states “A sexual abuse incident review shall be conducted at the conclusion of every sexual abuse investigation including where the allegation has not been substantiated unless the allegation has been determined to be unfounded. The Sussex I State Prison reported 7 cases in the 12 previous months. The agency policy requires that both sexual abuse and sexual harassment claims to go through the multi-disciplinary review process. The Auditor was provided with nine examples of the review teams at the Sussex I State Prison. The team reviewed sexual abuse and sexual harassment investigations that were substantiated or unsubstantiated on a form PREA Report of Incident Review.

**Indicator (b)** The policy OP 038.1 states the review should occur within 14 days of the investigation conclusion. The nine files reviewed by the Auditor in the past 12 months showed an inconsistent application of the requirement. The difference of date might have resolved the 30-day requirement. The Auditor realized the inconsistency in comparing the dates the investigation was completed vs the dates the review hearing was held. The PREA Compliance Manager is aware of the timing requirements of this indicator. In reviewing the dates on incident review forms, it was apparent the facility was in the process of rectifying the issue before the site visit. The Auditor requested a protocol to ensure compliance moving forward with the timeliness of these meetings. The facility and the Virginia Department of Corrections provided documentation of a plan to ensure the timeliness of this indicator is met moving forward. The document

describes the expectations consistent with the policy to ensure the meeting occurs with-in the standard guidelines and the PREA/ADA units process for checking the compliance moving forward.

**Indicator (c)** DOC policy language addresses the multi-discipline nature of the team. It states “The Review Team should consist of at least 2 DOC employees designated by the Unit Head. The Review Team shall consist of at least one Administrative Duty Officer who will solicit input from the PREA Compliance Manager, line supervisors, investigators, and medical or mental health practitioners for all sexual abuse and harassment incident reviews” In the review of documentation provided by Sussex I State Prison and various staff interviewed, the multi-disciplinary nature of the team was confirmed. The reviewed documents showed the committee consisted of the Warden, the Chief of Housing and Programming, The PREA Compliance Manager, a Sgt in the Intelligence Unit and included both medical and mental health staff.

**Indicator (d)** The elements described in this indicator are all covered in policy OP 038.1. which states “])

a. Provide a brief summary of the incident; clarify the original Incident Report or Internal Incident Report, as needed

b. Provide an analysis of the causal factors and contributing circumstances

i. Was the incident or allegation motivated by race, ethnicity, gender identity; lesbian, gay, bisexual, transgender or intersex identification, status, or perceived status; or gang affiliation, or was it motivated or otherwise caused by other group dynamics at the facility.

ii. Assess the adequacy of staffing in that area during different shifts.

iii. Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff.

c. Determine what can be done to limit the occurrence or reduce the severity of future incidents; consider whether there was a proper application of current procedure, practice, staffing and/ or training; or whether there is a need to revise the current procedure, practice, staffing, and/ or training.

d. Develop an Action Plan to limit or mitigate similar future incidents. The unit shall implement the recommendations for improvement or shall document its reasons for not doing so.”

The agency form used to document the review panel's considerations includes the required information listed above. The files reviewed showed consistent documentation of information supporting or denying the abuse was based on the elements listed above.

**Indicator (e)** Interviews with the Warden, The PREA Coordinator, the PREA Compliance Manager, and the PREA Analyst support that there are systems in place to ensure the information obtained in the review can be used to make changes in the facility. The Warden talked about the repositioning of cameras in response to identified blind spots. Both the Warden and the PREA Coordinator supported they have been supported in getting resources added to the facility to allow the purchase of equipment to improve safety which the Auditor witnessed on the tour.

### **Compliance Determination**

The Virginia DOC policy requires the completion of the steps outlined in this standard. The policy outlines the steps to provide for a critical incident review on all PREA sexual assault cases. The policy requires what information needs to be part of the incident review with language directly from standard. The Warden and the PREA Coordinator had shown where review information was translated to changes in the facility including the purchase of additional cameras or mirrors to help improve supervision. The Auditor's interaction with other staff support when safety issues are identified at SISF they will make procedural or staffing changes in addition to the technology investments. The information supported that the questions in indicator D were all asked and answered. The review team included a multi-disciplinary team of management, custody, and medical and mental health services staff. The Warden has put together a process to ensure that all of the reviews occur within the time period required in policy after the conclusion of an incident. As evidence to support the standard, the facility provided documentation of incident reviews.

Compliance was determined based on policy language, the documentation provided, staff understanding of the requirements, and the steps put in place to rectify the timeliness of the reviews.

## Standard 115.87: Data collection

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

#### 115.87 (a)

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

#### 115.87 (b)

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

#### 115.87 (c)

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

#### 115.87 (d)

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

#### 115.87 (e)

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

#### 115.87 (f)

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

### Auditor Overall Compliance Determination

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

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

### Instructions for Overall Compliance Determination Narrative

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

#### **Policies and written/electronic documentation reviewed.**

Policy – OP 038.3 Prison Rape Elimination Act  
Agency annual report 2014-2019  
Bureau of Justice Survey 2014-18  
SISP PREA Incident logs

#### **Individuals interviewed/ observations made.**

Interviews with PREA Coordinator  
Interview with PREA Compliance Manager  
Interviews with Director of Department of Corrections

#### **Indicator Summary Determination**

**Indicator (a)** The agency collects data consistent with the policy definitions which were developed to be consistent with the standard. Policy OP 038.3 states “The DOC collects accurate, uniform data on every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions. The agency aggregates the incident-based sexual abuse data at least annually.” The Auditor was provided a copy of the state’s past PREA annual reports and which shows consistent information is provided from each of Virginia’s facilities. The Director confirmed that data is used to improve the agency’s ongoing effort to protect, detect, and respond to incidents of sexual abuse and sexual harassment.

**Indicator (b)** The agency completes an annual report with aggregate data of the Sussex I State Prison. The Auditor was able to see the data from 2019 and the data produced so far in 2020. The Auditor also reviewed the agency’s annual report which is published on the state website.

**Indicator (c)** The Auditor was able to confirm the various elements of the Survey of Sexual Violence are maintained and could be used to complete the report if requested by the Department of Justice. There has not been a request by the Department of Justice for a Survey of Sexual Violence report for the Sussex I State Prison in 2019. Interviews with both the facility PREA Compliance Manager and the state PREA Coordinator confirmed the elements required were tracked. The Auditor also took into consideration information reviewed in investigatory files and Incident tracking reports and the examples of surveys of sexual violence completed between 2014 and 2018.

**Indicator (d)** The agency has rules on the retention of records at all DOC facilities. Copies of criminal files involving inmate on inmate contact will be retained locally with a copy to the agency PREA Coordinator. The PREA Coordinator would receive all incident outcomes and ensure data accuracy.

**Indicator (e)** The Department of Correction has provided the Auditor with the Data from the GEO group contracted facility with whom they subcontract. Agency policy states “Incident-based and aggregated data is collected from every private facility with which with the DOC contracts for the confinement of offenders”.

**Indicator (f)** The Department of Justice has not requested PREA related information from the Virginia DOC in the past year.

**Compliance Determination:**

The Auditor has found the standard to be compliant. The Virginia DOC has a system in place for collecting uniform data that could be used to complete the Survey of Sexual Violence. The 2019 Virginia Department of Corrections annual PREA report outlines the efforts including data for each of Virginia's DOC's facilities. The agency policy OP 038.3 Prison Rape Elimination Act commits the agency to comply with the data collection requirement of the standard. The Director of the DOC stated his commitment to utilizing data in the agency's ongoing efforts to prevent sexual misconduct. Interviews with the Director, the PREA Coordinator, The PREA Compliance Monitor, and information from the PREA Analyst support a system to collect uniform data. The Auditor took into consideration the interviews and the various documents that support data are collected and used at a statewide and facility level.

## Standard 115.88: Data review for corrective action

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

### 115.88 (a)

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

### 115.88 (b)

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

### 115.88 (c)

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



## 115.88 (d)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

#### **Policies and written/electronic documentation reviewed.**

Policy – OP 038.3 Prison Rape Elimination Act  
VA DOC Annual PREA Report

#### **Individuals interviewed/ observations made.**

Interview with Director of the Department of Corrections  
Interview with Warden  
Interview with PREA Coordinator  
Interview with PREA Analyst

#### **Indicator Summary Determination**

**Indicator (a)** The Virginia Department of Corrections utilizes both data related to PREA incidents and data related to other critical safety incidents to determine program improvements. The department's central office staff and the facility's administrative teams review critical incidents with an eye toward improving safety. Interview with the Warden and the Director of the Department of Corrections support critical analysis occurs not only at the facility level but also at a system level. Examples were provided of how improvements have been used across the system to improve inmate safety. The Warden also confirmed his team looks for trends to further guide policy/ procedural practices or the disbursement of resources.

**Indicator (b)** The Virginia Department of Corrections annual report has a comparison by each facility on the number of sexual assault and sexual harassment claims. Data compares the current year to the prior year's data and included the one contracted facility. The report shows if the accused was a staff or an inmate and provided the outcome determination. The report goes on to also track PREA related improvements across its facilities. The report also reviews the number of complaints that have been reported through the state hotline through the PREA/ADA unit.

**Indicator (c)** The Director of the Department of Corrections confirms the PREA report developed by the agency PREA Coordinator is approved by him before being placed on the agency’s website. OP 038.3 states “The report must be approved by the PREA/ADA Supervisor and the Director and made readily available to the public through the DOC Public website.”

**Indicator (d)** The DOC removes all identifiers from summary reports. The Auditor was able to review several documented reports on PREA that show cumulative data without utilizing identifiers.

**Compliance Determination:**

The Virginia Department of Corrections meets the requirements of this standard in policy OP 038.3 (pages 14-15) defines the use of data. The Director and the Warden supported they utilize data to make informed decisions on programmatic and policy needs. This is consistent with the standard expectation to do a critical review of data to identify problem areas and enact corrective actions. The PREA Coordinator and her team of analysts can identify trends that can be reviewed and support change at either the facility level or system level. The agency also showed compliance with PREA standards through the publishing of its annual reports that combines data, graphs, and narrative information on Virginia efforts since 2014 in the development of PREA safe facilities. The report highlights each facility and tracks trends of incidents without identifying information.

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

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

#### 115.89 (a)

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

#### 115.89 (b)

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

#### 115.89 (c)

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

#### 115.89 (d)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

#### **Policies and written/electronic documentation reviewed.**

Policy – OP 038.3 Prison Rape Elimination Act  
 Policy – OP 050.1 Offender Record Management  
 PREA Annual Report  
 VACORIS

#### **Individuals interviewed/ observations made.**

Interviews with PREA Coordinator  
 Interview with PREA Analyst  
 Interviews with PREA Compliance Manager  
 Interviews with Investigators  
 Interviews with Screening staff

#### **Indicator Summary Determination**

**Indicator (a)** The Virginia Department of Corrections has policies that protect the security of information. Policy OP 038.3 the PREA policy states “All data collected on allegations of sexual abuse at DOC facilities must securely retained.” Policy OP 050.1 Offender Records Management governs the establishment, utilization, content, privacy, secure placement, preservation, and security of offender records; the dissemination of information from these records, and instructions for retiring or destroying inactive records. Discussions with the PREA Coordinator, the individual who completes screenings, the Detective, and medical and mental health staff describe layers of controls in place to ensure no unnecessary disclosure.

**Indicator (b)** The Virginia Department of Corrections ensures the information related to PREA incidents and the agency’s efforts to support a zero-tolerance culture are published in an annual report available on the agency website. The annual report describes the agency and facility’s efforts to create and maintain PREA safe environments. The website also includes information on PREA incidents at the contracted facility. A review of the state’s website supports the annual reports are all publish dating back to 2014.

**Indicator (c)** The annual report located on the state’s website does not include any identifiers.

**Indicator (d)** Policy OP 038.3 sets forth the obligations of the agency’s PREA Coordinator including the responsibility for collecting all incidents. The policy states “All sexual abuse data collected must be maintained for at least 10 years after the date of the initial collection unless Federal, State, or local law requires otherwise.” Virginia DOC Policies OP 050.1 and OP 025.1 define controls and record retention.

The Agency PREA Coordinator is aware that all PREA related Data be maintained for a period of no less than 10 years.

**Compliance Determination:**

The Standard is compliant, the Auditor based this conclusion on the review of the agency policy and procedures, observations, and information obtained through the various staff interviews and review of documentation at the facility and on the agency website.

## AUDITING AND CORRECTIVE ACTION

### Standard 115.401: Frequency and scope of audits

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

#### 115.401 (a)

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

#### 115.401 (b)

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

#### 115.401 (h)

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

#### 115.401 (i)

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

#### 115.401 (m)

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

#### 115.401 (n)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

#### **Policies and written/electronic documentation reviewed.**

Policy – OP 038.3 Prison Rape Elimination Act  
Virginia DOC Website

#### **Individuals interviewed/ observations.**

Interviews with PREA Coordinator  
Interview with PREA Analyst  
Interviews with PREA Compliance Manager  
Tour of SISF

#### **Indicator Summary Determination**

**Indicator (a)** The Virginia DOC has several of its 42 facilities audited in a year. In 2019 the Agency had 9 Audits completed and this year they have already have 9 finalized PREA Audit reports posted to their website. The PREA Analyst reported he had been at 3 other audits in the weeks leading up to the Sussex I State Prison Audit. The State has one current contracted facility for beds which underwent its PREA audit in 2019.

**Indicator (b)** This is year one of the Audit cycle and from information provided and found on the agency website at least one-third of the facilities will be completed.

**Indicator (h)** The Auditor did have open access to all parts of the facility except 1 pod on COVID-19 Medical Isolation. Despite COVID-19 social distancing measures the Auditor was able to move freely about the housing units on the tour to be able to speak informally with inmates and staff to ensure they were aware of the Audit, the agency's efforts to educate inmates, and how to seek assistance if the need arises. The facility had one RED zone for Medical Isolation cases of COVID-19. The Auditor was able to see the architecture of the unit was consistent with the rest of the facility through video. The unit had a small population which did not impact the Auditor's ability to see an appropriate sample of random or targeted inmates in the facility. In two other pods, the Auditor also had to wear PPE during the tour and during the subsequent interviews that had to be completed on the unit.

**Indicator (i)** The Virginia Department of Correction provided the Auditor with an encrypted flash drive in advance with electronic PREA auditing files. The Auditor, Facility Leadership, the PREA Coordinator, and the Regional PREA Analyst had several zoom meetings to review material and set up information the Auditor would like to review on site. The Auditor was also able to get copies of other documentation as requested on site. The Agency provided materials in an organized manner.

**Indicator (m)** The Auditor was able to interview inmates throughout the facility in private spaces. The space provided was appropriate to allow the Auditor and the inmate to speak freely without others being able to hear our conversations. The Auditor was able to socially distance and use a mask during the audit, but it did not appear to impact the interview process.

**Indicator (n)** The Auditor did receive confidential mailings from inmates, but not from staff, or other interested parties. The Auditor's information was posted, and the facility PREA Compliance Manager was informed the posting should remain up until the final report is issued. During the onsite visit the Auditor made it clear that individuals who request to be seen would add to the random sampling of staff and clients to be interviewed. The Auditor did speak with individuals who had requested to be seen either in advance or while on site.

**Compliance Determination:**

The Virginia Department of Corrections has had PREA audits of each of its 42 facilities since 2014. The DOC has spread its facility audits over the three-year PREA cycle and have set up strong deadlines when contracting for new beds to be PREA compliant including undergoing formal audits. The Auditor was given full access to the prison and was not prohibited from returning to areas of the facility if requested. The Only Areas not visited was 1 COVID- 19 Red Zone which included 1 unit with had three positive cases requiring medical isolation. The Auditor was provided ample space and privacy to conduct confidential interviews with staff and inmates. The Auditor was required to wear PPE in two other pods which were considered yellow zones for COVID-19 cases. The facility did post the Audit notice, it was visible on the tour and inmates were aware of the posting and the audit. Compliance is based on the above-mentioned facts which support a culture in which PREA is monitored daily.

## Standard 115.403: Audit contents and findings

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

#### 115.403 (f)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

#### **Policies and written/electronic documentation reviewed.**

VA Department of Corrections Website

#### **Individuals interviewed/ observations made.**

Interview with PREA Coordinator

#### **Indicator Summary Determination**

**Indicator: (f)** The Virginia Department of Corrections website has all the previous PREA Audits posted. This was determined through a review of the state's DOC Website. The DOC has published all PREA reports dating back to the agency's first PREA Audits in 2014. Both of Sussex I State Prison's 2014 and 2017 reports were viewed on the state's website.

#### **Compliance Determination:**

The Virginia Department of Correction website has all previous facility PREA Audits posted under its PREA information link. The Auditor's prior experience with the agency allows first-hand knowledge of the prompt uploading of these documents. The Auditor also took into consideration that the Agency PREA Coordinator was also aware of the timing requirement for the posting of the audit report.





## AUDITOR CERTIFICATION

I certify that:

- The contents of this report are accurate to the best of my knowledge.
- No conflict of interest exists with respect to my ability to conduct an audit of the agency under review, and
- I have not included in the final report any personally identifiable information (PII) about any inmate or staff member, except where the names of administrative personnel are specifically requested in the report template.

### Auditor Instructions:

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

Jack Fitzgerald

11/26/20

**Auditor Signature**

**Date**

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

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