

**PREA AUDIT REPORT**       **Interim**     **Final**  
**ADULT PRISONS & JAILS**

**Date of report:** June 8, 2017

<b>Auditor Information</b>			
<b>Auditor name:</b> Walter Sipple <b>Address:</b> Post Office Box 2502, Mount Pleasant, South Carolina 29465 <b>Email:</b> waltersipple@comcast.net <b>Telephone number:</b> 843-323-8851 <b>Date of facility visit:</b> May 10-11, 2017			
<b>Facility Information</b>			
<b>Facility name:</b> Pocahontas State Correctional Center <b>Facility physical address:</b> 920 Old River Road, Pocahontas, Virginia 24635 <b>Facility mailing address:</b> (if different from above) Post Office Box 518, Pocahontas, Virginia 24635 <b>Facility telephone number:</b> 276-945-9173			
<b>The facility is:</b>	<input type="checkbox"/> Federal	<input checked="" type="checkbox"/> State	<input type="checkbox"/> County
	<input type="checkbox"/> Military	<input type="checkbox"/> Municipal	<input type="checkbox"/> Private for profit
	<input type="checkbox"/> Private not for profit		
<b>Facility type:</b>	<input checked="" type="checkbox"/> Prison	<input type="checkbox"/> Jail	
<b>Name of facility's Chief Executive Officer:</b> Stan K. Young <b>Number of staff assigned to the facility in the last 12 months:</b> 37 of 285 staff <b>Designed facility capacity:</b> 1,034 <b>Current population of facility:</b> 1,022 <b>Facility security levels/inmate custody levels:</b> Security Level 2-3 / Medium Security <b>Age range of the population:</b> 20 - 86			
<b>Name of PREA Compliance Manager:</b> Kathleen Vance		<b>Title:</b> Operations Manager PREA Compliance Manager	
<b>Email address:</b> Kathleen.Vance@vadoc.virginia.gov		<b>Telephone number:</b> 276-945-2215	
<b>Agency Information</b>			
<b>Name of agency:</b> Virginia Department of Corrections <b>Governing authority or parent agency:</b> (if applicable) <b>Physical address:</b> 6900 Atmore Drive, Richmond, Virginia 23225 <b>Mailing address:</b> (if different from above) Post Office 26963, Richmond, Virginia 23261-6369 <b>Telephone number:</b> 804-674-3119			
<b>Agency Chief Executive Officer</b>			
<b>Name:</b> Harold Clarke		<b>Title:</b> Director	
<b>Email address:</b> Harold.Clark@vadoc.virginia.gov		<b>Telephone number:</b> 804-887-8081	
<b>Agency-Wide PREA Coordinator</b>			
<b>Name:</b> Rose Durbin		<b>Title:</b> PREA/ADA Supervisor	
<b>Email address:</b> Rose.Durbin@vadoc.virginia.gov		<b>Telephone number:</b> 804-887-7921	

## AUDIT FINDINGS

### NARRATIVE

The Prison Rape Elimination Act second cycle audit of the Pocahontas State Correctional Center, located in Pocahontas, Virginia, was conducted from May 10-11, 2017, to determine continued compliance with the Prison Rape Elimination Act standards of August 20, 2012. Please refer to the National Prison Rape Elimination Act Resource Center for additional information at [www.praresourcecenter.org](http://www.praresourcecenter.org). The audit was conducted by Walter Sipple, United States Department of Justice Prison Rape Elimination Act certified adult facilities auditor, and no others, operating as an independent contractor with no conflict of interest. The Pocahontas State Correctional Center is a male only facility and part of the Commonwealth of Virginia Department of Corrections. The facility is classified as a Security Level 2-3 or medium security/custody level based system. It consists of 5 housing units. The facility has a 22 cell segregation or restrictive housing unit. The facility's maximum capacity is 1,034 offenders/inmates. The agency and facility refers to inmates as offenders.

The facility is located near the rural community of Pocahontas which is a small town in Tazewell County, Virginia. It was named for Chief Powhatan's daughter, Pocahontas who lived in the 17th Century Jamestown Settlement. The Pocahontas Exhibition Coal Mine is a Registered National Historical Landmark. The population was 389 at the 2010 census. It is part of the Bluefield, West Virginia-Virginia micropolitan area which has a population of 107,578. The facility enjoys a close and cooperative relationship within the community.

The audit process consists of a review of the Virginia Department of Corrections as well as the Pocahontas State Correctional Center. Specifically, pre-audit preparation included a thorough review of all documentation and material submitted by the agency and facility along with data included in the completed Pre-Audit Questionnaire. The auditor received primary documentation which consists of policy and secondary documentation which consists of procedure on a flash drive for review prior to the on-site phase of the audit process. The documentation reviewed consisted of agency and facility policies, procedures, forms, education materials, training curriculum, organization charts, posters, brochures, quarterly reports, offender/inmate population reports, memorandums of agreement, signed training rosters, community-based contact information, facility schematic, and other Prison Rape Elimination Act related materials that were provided to demonstrate compliance with the Prison Rape Elimination Act standards. This review prompted a series of questions that were reduced to writing and submitted to the Prison Rape Elimination Act Coordinator, Regional Prison Rape Elimination Act Analyst, and Prison Rape Elimination Act Compliance Manager for review. Answers to the questions were submitted by the agency Prison Rape Elimination Act Coordinator, Regional Prison Rape Elimination Act Analyst, and facility Prison Rape Elimination Act Compliance Manager and reviewed by the auditor prior to the on-site phase of the audit process. Follow-up documentation was also sent to the auditor.

During the on-site visit portion of the audit process, an entrance meeting was held with the Pocahontas State Correctional Center Assistant Warden, facility level Prison Rape Elimination Act Compliance Manager/Operations Manager, agency level Prison Rape Elimination Act Coordinator, agency level American with Disabilities Act Coordinator, Office Service Specialist, Health Authority, Principle, Business Manager, Laundry Manager, Institutional Training Officer, Chief of Security, Human Resource Officer, Records Manager, Investigator, Institutional Program Manager, Unit Manager "A" Building, Unit Manager "C" Building, Unit Manager "D" Building, Chief Housing and Programs, and the outside of the agency Prison Rape Elimination Act Auditor. The auditor was allowed access to the agency and facility in order to conduct the audit. Following the entrance meeting, the auditor toured and observed operations at the facility. The auditor contact information was posted throughout the facility prior to the on-site phase of the audit. The facility staff was fully cooperative with the auditor and audit process. A schematic layout of the facility was provided by the staff which consisted of the inmate housing areas. A list of staff, volunteers, and contractors to include assignments and roles was provided to the auditor.

The auditor reviewed compliance with the Prison Rape Elimination Act standards based on a review of agency policy, procedure, practice, daily activities, documentation, observation, and interviews with staff and offenders/inmates. Interviews were conducted with various outside agencies, to include but not limited to, the County Sheriff's Department; Bluefield Medical Center; Princeton Community Hospital; The National Sexual Assault Hotline; Rape, Abuse, and Incest National Network; Prison Rape Elimination Act Resource Center; Just Detention International; Virginia Sexual & Domestic Violence Action Alliance and Mercer County advocacy and crisis assistance.

Offenders/Inmates were interviewed using the recommended Department of Justice protocols that question their knowledge of a variety of Prison Rape Elimination Act protections generally and specifically their knowledge of reporting mechanisms available to offenders/inmates to report abuse or harassment. Staff were questioned using the Department of Justice protocols that question their Prison Rape Elimination Act training and overall knowledge of the agency's and facility's zero tolerance policy, reporting mechanisms available to offenders/inmates and staff, the response protocols when an offender/inmate alleges abuse, and first responder duties. An objective random sampling of staff, volunteer, offender/inmate, and contractor interviews was selected from a series of lists presented to the auditor by the facility. Last names were randomly selected by the auditor from an alphabetically ordered list. A total of 26 agency and facility staff were interviewed per random sampling from the auditor. A total of 46 offenders/inmates were interviewed per random sampling from the auditor, along with special category offender/inmates and a sampling identified during the in-take screening process. The auditor also conducted an after-normal-hours visit on May 10, 2017, to observe evening operations and interview night section staff. An exit interview was conducted at the end of the on-site visit by the auditor with the facility Assistant Warden, Chief of Security, facility Prison Rape Elimination Act Compliance Manager/Operations Manager, Chief Housing and Programs, agency level Prison Rape Elimination Act Coordinator, and agency level American with Disabilities Act Coordinator. Follow-up hard copy documentation was given to the auditor.

## **DESCRIPTION OF FACILITY CHARACTERISTICS**

The Pocahontas State Correctional Center was built in 2007 and includes over 800 acres of picturesque wooded mountains. The facility has a security level fence that surrounds the entire perimeter of the facility with staff controlled entry and exit. The facility has a capacity of 1,034 offenders/inmates classified for the security level 2-3 facility. The physical plant consists of a total of 8 buildings. The entrance and administrative building is located just outside of the security perimeter fence that surrounds 5 offender/inmate housing units and one multipurpose building that includes the kitchen, gym, restrictive housing unit, medical, laundry, staff offices, and visitation. A warehouse and maintenance building sits outside the perimeter fence. The offender/inmate recreation yard is located in the middle of the facility with a security perimeter fence. The double outer perimeter fence has electronic motion detection and razor wire as well as video surveillance.

The Division of Education offers six (6) levels of academic programming at Pocahontas State Correctional Center: Adult Basic Education (ABE) I, II, III -- ABE 1-3 is instruction in reading, math, and language arts; Pre-GED – (ABE 4), This is instruction in the five areas of the GED, which include, Writing, Social Studies, Science, Math, and Language Arts; GED – (ABE 5 and 6), This is preparation for the GED test for offenders/inmates who score 9.0 or above on the total battery of the TABE. College: All coursework and associated costs to any college is the sole responsibility of the offender/inmate. School staff is available for proctoring any correspondence courses approved through the facility.

The Division of Education offers five (5) fields of study in career and technical education:

- Computer Aided Drafting –AutoCAD: This program provides instruction that enable the students to produce a complete and accurate set of drawings based on the ideas and sketches of engineers, architects and designers. Offenders/Inmates learn how to draw and prepare detailed mechanical and architectural plans; apply techniques of lettering, orthographic projection procedures, dimensioning techniques, auxiliary views, working drawings and pictorial representations. Emphasis is placed on using computer equipment and software to apply drafting principles in both mechanical and architectural drafting. Skills in basic computer literacy and detailed software applications are mastered. It takes approximately 9 to 12 months to complete this course based on one three-hour class period per day.
- Floor Covering: This program introduces and exposes students to various aspects of the Floor Covering Industry, such as Blueprint Reading & Estimation, Ceramic Tile Installation, Resilient Tile Installation, Sheet Goods (Vinyl) Installation, and Carpet Installation. This course provides information on how to install sheet goods by gluing it in place and also information on how to install Residential and Commercial floor covering. It takes approximately 10 to 12 months to complete this course, based on one three-hour class period per day.
- Plumbing or Plumbing/Pipe Fitting: Offenders/Inmates are provided instruction that will enable them to assemble, install, and repair pipes, fittings, and fixtures of heating, water, and drainage systems, according to specifications and plumbing codes. Offenders/Inmates are able to recognize plumbing symbols and abbreviations used in architectural drawings, take dimensions off drawings in inches and feet, and locate and mark position of pipe and pipe connections and passage holes for pipes in walls and floors. Major areas of instructions are steel pipe-fittings, drainage, waste and ventilation (DWV) fittings, septic systems and soil pipe, plastics, domestic water supply, plumbing repairs and maintenance, and employability skills. Generally, each course can be completed in approximately six (6) months, meeting for one three-hour class period each day.
- Building Maintenance & Repair: The program enables the offenders/inmates to repair and maintain structures such as homes and apartment complexes. Offenders/Inmates learn how to repair electrical, plumbing, heating ventilation and air conditioning systems and complete carpentry, masonry and general everyday maintenance repairs. The course can be completed in fourteen (14) months based on one three-hour class period per day.
- Motorcycle/Small Engine Repair: Offenders/Inmates learn basic engine theory and operation. They learn to troubleshoot and repair small engine equipment and specialize in motorcycle equipment. Work includes tune-ups, general servicing, and engine rebuilding. The course will be approximately 12 to 14 months in length.

Career and Readiness Certificate (CRC): The career readiness certificate was part of Gov. Mark Warner's Education for a Lifetime initiative. Oversight of the CRC is the responsibility of the Commissioner of the Virginia Employment Commission. The Career Readiness Certificate is a “portable skills” credential, assuring employers that a job applicant actually has the basic skills they seek. Virginia’s CRC helps employers by certifying that a recipient possesses core skills in reading for information, locating information, and applied math. These are the skills required by at least 85% of all jobs profiled by ACT WorkKeys® in the country.

Transitional Services: Improve language skills with Rosetta Stone. The facility has the Spanish and English version. Transitional services are provided that enhance each offender’s/inmate’s employment possibilities, life skills and aid in transitioning students into the job market and their communities. Basic Computer Skills Training for Correctional Institutions: A series of courses that teach essential computer skills, including Windows, Internet (without requiring internet access), Email and Microsoft Office. This course is designated for pre-release offenders/inmates and re-entry offenders/inmates within 5 years of release.

## **SUMMARY OF AUDIT FINDINGS**

The audit preparation for the Pocahontas State Correctional Center included a thorough review of all primary/policy and secondary/practice documentation and materials submitted by the agency and facility along with the data included in the Pre-Audit Questionnaire to demonstrate compliance with the standards. The facility Prison Rape Elimination Act Compliance Manager also provided the auditor with several hard copies of facility policy, offender orientation manual, and instruction during the on-site phase of the audit process.

The facility reported 23 allegations of sexual abuse or sexual harassment in the past 12 months. The auditor thoroughly reviewed all 23 allegations during the on-site visit phase of the audit process. The auditor conducted a thorough facility-wide review of the Pocahontas State Correctional Center. All 23 cases were determined to be unsubstantiated or unfounded by the agency and facility investigators. The auditor received 3 requests for an interview during the audit process and 3 offender/inmate inquiries via written correspondence from the auditor posted contact information along with 1 written text message from an outside the facility third-party inquiry. The auditor interviewed all 3 offenders/inmates that were still confined at the facility during the on-site visit and followed-up with the inquiry.

The interviews of offenders/inmates reflected that they were aware of and understood the Prison Rape Elimination Act protections and the agency's zero tolerance policy. Offenders/Inmates receive written materials at intake that provide detailed information about Prison Rape Elimination Act protections, the multiple ways to report sexual abuse or sexual harassment and ways to protect themselves from abuse. Offenders/Inmates were able to articulate to the auditor what they would do and who they would tell if they were sexually abused or sexually harassed. All facility staff interviewed indicated they had received detailed Prison Rape Elimination Act training and could articulate the meaning of the agency's zero tolerance policy and first responder process.

Please note that the auditor is a completely outside of the agency and Commonwealth of Virginia auditor never before visiting any of the facilities. The Virginia Department of Corrections has a national reputation in corrections as a model for others to emulate. The auditor was not disappointed throughout the audit process. The agency is impressive. The agency maintains high standards and it is reflected throughout the organization. It is part of the culture from the top of the organization down to the facility level. Overall, the auditor was impressed with the facility and staff. The facility is well maintained and located in a rural area surrounded by picturesque mountains. The auditor noted that the facility had several experienced and veteran staff that worked at the facility providing operational consistency and stability. The offenders/inmates and staff have a focus on the agency and facility mission with a robust educational, vocational, counseling, and recreation program. The vocational education program is very popular with the majority of offenders/inmates and keeps them primarily focused on eventual release. The staff and offenders/inmates were completely cooperative and helpful throughout the audit process. The agency and facility staff did a good job of providing the auditor with primary and secondary documentation to confirm compliance with the Prison Rape Elimination Act standards. The auditor commended the offender/inmate education and vocational programs. The motorcycle vocational repair shop was creative, popular, and unique. The auditor commended the facility investigator for his thorough investigative files. The auditor commended the facility security staff for their active and random roving details, multi-tasking ability, and team oriented cohesiveness. The auditor commended the facility buildings and grounds staff for their creative restrictive housing shower privacy screen. The auditor commended the facility compliance manager for her extraordinary attention to detail and special emphasis on her creation of first responder cards and so-called "green binders" located throughout the facility. The binders are similar to post orders. The auditor commended the facility senior executive staff for their leadership role and style. The auditor commended the regional analyst and agency level coordinator for their organizational skills, commitment, and policy expertise. The agency policies mirror the Prison Rape Elimination Act standards. The agency website is also well organized and impressive.

The auditor noted that this audit is the second of its kind for the facility, staff, and offenders/inmates. During the first cycle audit, the agency and facility was determined to be 100% compliant with the standards, without any corrective action requirements, and the agency completed the required number of audits in accordance with the standards and timeline. The auditor stressed the importance of maintaining compliance as well as conducting follow-up reviews by agency and facility leadership during the exit briefing. The auditor determined that the facility is 100% compliant with the Prison Rape Elimination Act standards for this relevant review period. In addition, the auditor determined that the facility exceeds standard 115.11 due in part to the creation of agency policy 038.3 and three regional Prison Rape Elimination Act analysts and hotline coordinator; exceeds standard 115.17 due in part to the exceptional documentation; exceeds standard 115.18 due in part to the large number of cameras and quality of monitoring system; exceeds standard 115.31 by the extensive agency and facility level training plan; exceeds standard 115.33 due in part to the multi-layered education process; exceeds standard 115.54 due in part to the multiple reporting options; exceeds standard 115.65 by creating a detailed and easy to follow coordinated response protocol for the facility staff (facility policy); and exceeds standard 115.87 due in part to the extensive agency data collection and analysis process.

Number of standards exceeded: 8 (115.11, 115.17, 115.18, 115.31, 115.33, 115.54, 115.65, 115.87)

Number of standards met: 35

Number of standards not met: 0

Number of standards not applicable: 0

### **Standard 115.11 Zero tolerance of sexual abuse and sexual harassment; PREA Coordinator**

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

**Auditor discussion, including 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 standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

Auditor comments: The Virginia Department of Corrections mission statement is as follows: "We enhance the quality of life in the Commonwealth by improving public safety. We accomplish this through reintegration of sentenced men and women in our custody and care by providing supervision and control, effective programs and re-entry services in safe environments which foster positive change and growth consistent with research-based evidence, fiscal responsibility, and constitutional standards."

The Pocahontas State Correctional Center mission statement is as follows: "Pocahontas State Correctional Center enhances public safety by striving to reduce recidivism. This will be achieved by providing appropriate supervision and treatment programming in a cost-efficient, humane manner. Staff at Pocahontas State Correctional Center strive to make today's offender tomorrow's good neighbor." The Pocahontas State Correctional Center Offender Orientation Manual reinforces the facility mission statement as follows: "Striving to make today's offender tomorrow's good neighbor."

The Virginia Department of Corrections and Pocahontas State Correctional Center is fully 100% compliant and accredited by the American Correctional Association. The accreditation process is voluntary and institutes nationally recognized best practices in corrections. The American Correctional Association is a private nationally recognized correctional organization with a mission statement that shapes the future of corrections through strong, progressive leadership that brings together various voices and forges coalitions and partnerships to promote the concepts embodied in its Declaration of Principles. The American Correctional Association provides a professional organization for all individuals and groups, both public and private that share a common goal of improving the justice system. Specifically, the Virginia Department of Corrections Central Office received its most recent successful audit and accreditation from June 18-19, 2016; the Virginia Department of Corrections Academy for Staff Development received its most recent audit and accreditation from November 16-17, 2016; and the Pocahontas State Correctional Center received its most recent audit and accreditation from June 20-22, 2016. The American Correctional Association promotes generally accepted correctional practices. The American Correctional Association standards compliment the Prison Rape Elimination Act standards.

The Virginia Department of Corrections and the Pocahontas State Correctional Center operational policy and procedure (038.3 and 135.2) specifically states: "Zero Tolerance Policy: DOC prohibits and will not tolerate any fraternization or sexual misconduct by staff, contractors, or volunteers with offenders, or between offenders as defined in this operating procedure. The DOC actively works to prevent, detect, report, and respond to any violation. (§115.11[a])".

The auditor thoroughly reviewed the Virginia Department of Corrections written operating policies and procedures (038.3 and 135.2) toward sexual abuse and sexual harassment and it specifically outlines the agency's approach to preventing, detecting, and responding to such conduct. The agency employs an agency-wide Prison Rape Elimination Act coordinator with sufficient time and authority to develop, implement, and oversee agency efforts to comply with the Prison Rape Elimination Act standards. The agency also has three regional Prison Rape Elimination Act analysts as reflected on the agency organizational chart. The auditor was impressed that the agency has several staff who are also certified Prison Rape Elimination Act auditors with many years of experience. The agency level staff did an excellent job providing primary/policy and secondary/practice documentation to confirm compliance with the standards. The facility-based Prison Rape Elimination Act compliance manager is an experienced staff member and reports directly to the facility warden as reflected in the facility organizational chart. The facility Prison Rape Elimination Act compliance manager represented the facility and agency very well during the audit process.

Specifically, per agency operating policy and procedure (038.3), "The Director has designated an agency-wide PREA coordinator to work in the office of the Chief of Corrections Operations with sufficient time and authority to develop, implement, and oversee agency efforts to comply with the PREA standards in all of its facilities (§115.11[b]); regional level PREA Analysts have been designated to direct facility PREA activities; and each facility shall designate a PREA compliance manager with sufficient time and authority to coordinate the facility's efforts to comply with the PREA standards (§115.11[c])".

The Virginia Department of Corrections and the Pocahontas State Correctional Center policy and procedure (038.3) establishes the responsibilities, policies, and procedures to implement a zero-tolerance policy for prohibiting, preventing, detecting, responding to and investigating the sexual abuse and sexual harassment of inmates under Virginia Department of Corrections care and control. The agency and facility has an easy to understand organizational chart and the auditor was provided a copy during the pre-audit phase of the audit. The facility staff acknowledged an understanding of the zero tolerance policy along with the specific Prison Rape Elimination Act policy and procedure.

The auditor reviewed the Code of Virginia, agency operating policies and procedures; observed facility practices; reviewed data provided by the facility staff; and interviewed offenders/inmates and staff during an on-site visit and tour of the facility. The auditor was impressed with the level of commitment that the agency director, agency and regional Prison Rape Elimination Act coordinators / analysts, facility warden, and facility level compliance manager had toward compliance with the standards. The auditor was impressed with the facility's compliance with all of the standards. It was evident throughout the on-site phase of the audit process that all staff and offenders/inmates have a thorough understanding of the agency operating policy and procedure as well as the agency's zero tolerance policy. The specific operating procedure referencing the Prison Rape Elimination Act forms the foundation and contains necessary definitions, sanctions and descriptions of the agency strategies and responses to sexual abuse and sexual harassment.

Based on the listed information, the auditor determination is that the agency and facility not only complies with the standard but exceeds the standard for the relevant review period. This determination is based in part on the creation of agency-wide/regional Prison Rape Elimination Act Analyst positions as well as a hotline coordinator and several agency level staff completing the Prison Rape Elimination Act auditor training. In addition, the scope and successful implementation of the agency Prison Rape Elimination Act policy is evident throughout the audit process. The agency level Prison Rape Elimination Act Coordinator and regional Analysts initiated and completed two statewide training conferences for all of the facility Prison Rape Elimination Act Compliance Managers as well as other training initiatives. The auditor also commended the agency and facility for implementing what is considered best practices in corrections and in accordance with the intent of the Prison Rape Elimination Act.

Auditor note: The auditor recently attended the Compliance and Accreditation Managers' Association Conference which is a national affiliate of the American Correctional Association, from May 20-23, 2017, in Murfreesboro, Tennessee. The Prison Rape Elimination Act Resource Center and affiliated organizations stressed that compliance is not a linear path in that compliance must be sustained and maintained regardless of audit schedule or timing. Agencies and facilities should expect audits to get more thorough as the Department of Justice is refining its expectations for the process and clarifying what is required for continued compliance into the next audit cycles. This final report is reflective of those expectations and in accordance with the most up-to-date auditor/auditing guidance.

#### Code of Virginia, Policy, Materials, Interviews and Other Evidence Reviewed:

- Code of Virginia §18.2-61, §18.2-64.2, §18.2-67.10, §18.2-67.4, §2.2-2900, §53.1-10.
- Virginia Department of Corrections Operating Procedure 038.3: Prison Rape Elimination Act dated May 1, 2016.
- Virginia Department of Corrections Operating Procedure 135.2: Rules of Conduct Governing Employee Relationships with Offenders dated November 1, 2016.
- Virginia Department of Corrections Organizational Chart.
- Pocahontas State Correctional Center Organizational Chart.
- Pocahontas State Correctional Center secondary documentation confirming compliance with the standard.
- Interviews with agency Director, Prison Rape Elimination Act Coordinator, regional Prison Rape Elimination Act Analyst, facility Compliance Manager, Assistant Warden, facility staff, and documentation of training and credentials.
- Virginia Department of Corrections submitted Pre-Audit Questionnaire.
- American Correctional Association Commission on Accreditation for Corrections.

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

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

**Auditor discussion, including 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 standard. These recommendations must be included in the Final Report, accompanied by information on specific**

## **corrective actions taken by the facility.**

Auditor comments: The Virginia Department of Corrections operating policy and procedure (038.3) states, “Through contracts and Board of Corrections operating standards, facilities and jails that contract for the confinement of DOC offenders shall include in any new contract or contract renewal the entity’s obligation to adopt and comply with the PREA standards (§115.12[a]). Any new contract or contract renewal shall provide for agency contract monitoring to ensure that the contractor is complying with the PREA standards (§115.12[b])”.

Specifically, in accordance with agency operating policy and procedure, 260.1, “All contracts for the confinement of DOC offenders shall include in any new contract or contract renewal the entity’s obligation to adopt and comply with the PREA standards (§115.12[a]). Any new contract or contract renewal shall provide for agency contract monitoring to ensure that the contractor is complying with the PREA standards (§115.12[b]). 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 (§115.212[c])”.

The auditor interviewed the agency Prison Rape Elimination Act coordinator and regional analyst as well as contracting officials. The auditor received confirmation of non-agency confinement of agency inmates in accordance with agency operating policies and procedures (038.3 and 260.1). Specific contract documentation was received in reference to an agreement with the private organization, The GEO Group, Inc., and the Virginia Department of Corrections Lawrenceville Correctional Center dated February 7, 2017. The auditor received a memorandum from the agency chief legal services’ office renewing the contract for the period of March 23, 2017 to March 22, 2018. The auditor also received a memorandum from the Pocahontas Correctional Center warden, dated February 7, 2017, confirming that the facility does not contract with other entities for the confinement of inmates.

The agency and facility is in compliance with the standard for the relevant rating period.

Code of Virginia, Policy, Materials, Interviews and Other Evidence Reviewed:

- Code of Virginia §18.2-61, §18.2-64.2, § 18.2-67.10, §18.2-67.4, §2.2-4300, §53.1-10, §53.1-179.
- Virginia Department of Corrections Operating Procedure 038.3: Prison Rape Elimination Act dated May 1, 2016.
- Virginia Department of Corrections Operating Procedure 260.1: Procurement of Goods and Services dated December 1, 2016.
- The GEO Group, Inc., One Park Place, Suite 700, 621 Northwest 53<sup>rd</sup> Street, Boca Raton, Florida 33487.
- Pocahontas State Correctional Center memorandum from the facility warden dated February 1, 2017.
- Virginia Department of Corrections memorandum from the agency chief legal services office dated February 7, 2017.
- Interviews with agency Director, Prison Rape Elimination Act Coordinator, regional Prison Rape Elimination Act Analyst, facility Compliance Manager, Assistant Warden, and facility staff.
- Virginia Department of Corrections submitted Pre-Audit Questionnaire.

## **Standard 115.13 Supervision and monitoring**

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

**Auditor discussion, including 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 standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

Auditor comments: The Virginia Department of Corrections and the Pocahontas State Correctional Center has operational policies and procedures (401.1, 401.2, 401.3, 038.3) in reference to a staffing plan. Specifically, per agency operational procedure 401.2, “Each facility shall develop, document, and make its best efforts to comply on a regular basis with a staffing plan that provides for adequate levels of staffing, and, where applicable, video monitoring, to protect offenders against sexual abuse. In calculating adequate staffing levels and determining the need for video monitoring (§115.13[a]). In circumstances where the staffing plan is not complied with, the facility shall document and justify all deviations from the plan (§115.13[b]). By January 31 of each year and more frequently if needed, each facility shall review any existing staffing plan and all post audits (§115.13[c]).”

The auditor interviewed the agency and facility staff and verified that the staff develops, implements, and documents a staffing plan that provides for adequate levels of staffing, and, where applicable, video monitoring, to protect offenders/inmates against sexual abuse or sexual harassment. The facility takes the following into consideration per the standard:

- 1) Generally accepted detention and correctional practices;
- 2) Any judicial findings of inadequacy;
- 3) Any findings of inadequacy from Federal investigative agencies;
- 4) Any findings of inadequacy from internal or external oversight bodies;
- 5) All components of the institution's/facility's/center's physical plant (including "blind-spots" or areas where staff or offenders may be isolated);
- 6) The composition of the offender/inmate population;
- 7) The number and placement of supervisory staff;
- 8) Institution programs occurring on a particular shift;
- 9) Any applicable State or local laws, regulations, or standards;
- 10) The prevalence of substantiated and unsubstantiated incidents of sexual abuse;
- 11) Any other relevant factors.

In circumstances where the staffing plan is not complied with, the agency shall document and justify all deviations from the plan. Whenever necessary, but no less frequently than once each year, the agency shall assess, determine, and document whether adjustments are needed to:

- 1) The staffing plan established pursuant to the standard;
- 2) Prevailing staffing patterns;
- 3) The facility's deployment of video monitoring systems and other monitoring technologies; and
- 4) The resources the facility has available to commit to ensure adequate staffing levels.

Specifically, the facility operating procedure details a step-by-step procedure on conducting unannounced rounds with documentation on facility log books detailing such rounds for confirmation of compliance. Per agency operating policy and procedure 401.1, "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 (§115.13[d]). Post Orders shall require that Lieutenants and above conduct and document unannounced rounds to identify and deter staff sexual abuse and sexual harassment (§115.13[d]). Supervisors are prohibited from notifying staff of unannounced rounds. Supervisors of the opposite gender shall announce their presence when entering an offender housing unit to conduct an unannounced round and document this announcement in the post logbook. Unannounced rounds shall be conducted intermittently during the month and must be conducted on both night and day shifts (§115.13[d])."

The agency and facility is in the second cycle auditing process. The auditor reviewed agency and facility operating policy and procedure (401.1, 401.2, 401.3, 038.3). The agency and facility meet the standard and complies with the standard for the relevant review period. The auditor specifically interviewed the facility warden and confirmed the required elements of the staffing plan along with documentation to support compliance. The auditor stressed and emphasized the importance of having and maintaining a thoroughly documented facility staffing plan and the facility warden acknowledged the importance. Auditor note: A specific standard related webinar is available online for future reference and a training resource opportunity titled, "Developing and Implementing a Prison Rape Elimination Act Compliant Staffing Plan", from the National Prison Rape Elimination Act Resource Center located at [www.praresource.org](http://www.praresource.org).

Code of Virginia, Policy, Materials, Interviews and Other Evidence Reviewed:

- Code of Virginia §53.1-10, §18.2-61, §18.2-64.2, §18.2-67.10, §18.2-67.4.
- Virginia Department of Corrections Operating Procedure 038.3: Prison Rape Elimination Act dated May 1, 2016.
- Virginia Department of Corrections Operating Procedure 401.3: Administrative Duty Coverage dated September 1, 2015.
- Virginia Department of Corrections Operating Procedure 401.2: Security Staffing dated January 1, 2017.
- Virginia Department of Corrections Operating Procedure 401.1: Development and Maintenance of Post Orders dated September 1, 2016.
- Pocahontas State Correctional Center memorandum from the facility warden with facility staffing plan dated March 15, 2017.
- Pocahontas State Correctional Center log book entries confirming unannounced rounds on all shifts.
- Interviews with agency Director, Prison Rape Elimination Act Coordinator, regional Prison Rape Elimination Act Analyst, facility Compliance Manager, Assistant Warden, and facility staff.
- Virginia Department of Corrections submitted Pre-Audit Questionnaire.

## **Standard 115.14 Youthful inmates**

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

**Auditor discussion, including 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 standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

Auditor comments: In accordance with agency operating policy and procedure (038.3), “A youthful inmate shall not be placed in a housing unit in which the youthful inmate will have sight, sound, or physical contact with any adult inmate through use of a shared dayroom or other common space, shower area, or sleeping quarters. Direct supervision by facility staff is required at all times when a youthful inmate and an adult offender has sight, sound, or physical contact with one another. DOC provides specialized housing arrangements for youthful inmates to meet the requirements of this standard. Exigent circumstances may require removal to a special housing unit or restrictive housing unit at those institutions operating under the restrictive housing program (§115.14)”.

The Pocahontas State Correctional Center facility warden confirmed via written memorandum that to date the facility does not house any offenders under the age of eighteen. The agency and facility meet the standard for this relevant review period.

Code of Virginia, Policy, Materials, Interviews and Other Evidence Reviewed:

- Code of Virginia §2.2-3704.01, §53.1-10, §18.2-61, §18.2-64.2, §18.2-67.10, §18.2-67.4.
- Virginia Department of Corrections Operating Procedure 038.3: Prison Rape Elimination Act dated May 1, 2016.
- Virginia Department of Corrections Operating Procedure 425.4: Management of Bed and Cell Assignments dated February 1, 2016.
- Pocahontas State Correctional Center memorandum from the facility warden confirming no eighteen year old inmates dated February 1, 2017.
- Interviews with agency Director, Prison Rape Elimination Act Coordinator, regional Prison Rape Elimination Act Analyst, facility Compliance Manager, Assistant Warden, and facility staff.
- Virginia Department of Corrections submitted Pre-Audit Questionnaire.

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

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

**Auditor discussion, including 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 standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

Auditor comments: In accordance with agency operational policy and procedure (350.2), “Cross gender frisk searches of transgender and intersex offenders will be in a professional and respectful manner and in the least intrusive manner possible consistent with security needs (§115.15[f])”. Agency operational policy and procedure (801.1) states, “Facility procedures and practices shall enable offenders 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 (§115.15[d])”. The agency and facility staff of opposite gender announce their presence while entering inmate housing and living quarters. Specifically, per agency operating procedure 401.1, “Staff of the opposite gender shall announce their presence when entering an offender housing unit (§115.15[d]).” Offenders/Inmates are allowed to shower, perform bodily functions, and change clothing without non-medical staff of the opposite gender viewing their

buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks. Specifically, per agency operating procedure 401.2, “Facility procedures and practices shall enable offenders 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 (§115.15[d]).” The facility does not search or physically examine a transgender or intersex inmate for the sole purpose of determining the offender’s/inmate’s genital status.

Per agency operational policy and procedure, 445.1, “Searches may be conducted by trained DOC staff at any time whether or not criteria for reasonable belief exists. The DOC shall train security staff in how to conduct cross-gender pat-down searches, and searches of transgender and intersex offenders, in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs (§115.15[f]). A transgender or intersex offender shall not be searched or physically examined for the sole purpose of determining the offender’s genital status. If the offender’s genital status is unknown, it may be determined through conversation with the offender, a review of the medical record, or if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner (§115.15[e]). Strip searches shall be conducted by trained DOC employees of the same gender as the offender being searched. Transgender and intersex offenders expressing a preference regarding the sex of the correctional staff conducting the strip search should request consideration of their preference in writing to the facility Treatment Team for review (§115.15[a]). Strip searches of offenders by opposite gender staff may only be conducted when there is an immediate threat to the safe, secure, orderly operation of the facility and there is no other available alternative (§115.15[a].)”

The auditor reviewed the agency and facility operating policies and procedures (policy 038.3, 401.1, 401.2, 445.1, 720.2, 801.1) along with secondary documentation submitted with the pre-audit questionnaire; observed agency and facility practices; reviewed data and documentation provided by the agency and facility staff; and interviewed offenders/inmates and staff during an on-site visit and tour of the facility. The facility provided the auditor with staff training rosters and training curriculum confirming compliance with the standard for this related review period. The agency and facility meet the standard for the relevant rating period.

#### Code of Virginia, Policy, Materials, Interviews and Other Evidence Reviewed:

- Code of Virginia §9.1-102, §19.2-81.2, §53.1-29, §32.1-59, §53.1-26, §32.1-59, §54.1-2900, §54.1-3000, §53.1-10, §18.2-61, §18.2-64.2, §18.2-67.10, §18.2-67.4.
- Virginia Department of Corrections Operating Procedure 038.3: Prison Rape Elimination Act dated May 1, 2016.
- Virginia Department of Corrections Operating Procedure 401.2: Security Staffing dated January 1, 2017.
- Virginia Department of Corrections Operating Procedure 401.1: Development and Maintenance of Post Orders dated September 1, 2016.
- Virginia Department of Corrections Operating Procedure 445.1: Employee, Visitor, and Offender Searches dated August 1, 2015.
- Virginia Department of Corrections Operating Procedure 720.2: Medical Screening, Classification, and Levels of Care dated December 1, 2015.
- Virginia Department of Corrections Operating Procedure 801.1: Facility Physical Plant and Sanitation dated December 1, 2015.
- Pocahontas State Correctional Center memorandum from the facility warden confirming to date that the facility has not and does not conduct strip searches for the sole purpose of determining an offender’s genital status dated February 1, 2017.
- Interviews with agency Director, Prison Rape Elimination Act Coordinator, regional Prison Rape Elimination Act Analyst, facility Compliance Manager, Assistant Warden, and facility staff.
- Virginia Department of Corrections submitted Pre-Audit Questionnaire.
- Pocahontas State Correctional Center staff training rosters and training curriculum.

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

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

**Auditor discussion, including 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 standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

Auditor comments: In accordance with agency operational policy and procedure (038.3), “The DOC shall take appropriate steps to ensure PREA Audit Report

that offenders with disabilities (including, for example, offenders who are deaf or hard of hearing, those who are blind or have low vision, or those who have intellectual, psychiatric, or speech 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. Such steps shall include, when necessary to ensure effective communication with offenders who are deaf or hard of hearing, providing access to interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary. The DOC shall ensure that written materials are provided in formats or through methods that ensure effective communication with offenders with disabilities, including offenders who have intellectual disabilities, limited reading skills, or who are blind or have low vision. The DOC is not required to take actions that it can demonstrate would result in a fundamental alteration in the nature of a service, program, or activity, or in undue financial and administrative burdens, as those terms are used in regulations promulgated under title II of the Americans With Disabilities Act, 28 CFR 35.164. The DOC shall 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 offenders who are limited English proficient, including steps to provide interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary. The DOC shall not rely on offender interpreters, offender readers, or other types of offender assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the offender's safety, the performance of first-response duties under, or the investigation of the offender's allegations (§115.16)".

The auditor met with and interviewed a number of offenders/inmates with disabilities during the on-site phase of the audit process. The agency and facility takes appropriate steps to ensure that offenders/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. The agency takes 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 offenders/inmates who are limited English proficient.

Auditor note: The National Center for Victims of Crime recently initiated and launched the Victim Connect Resource Center which is a resource for victims, to include but not limited to, providing critical, confidential assistance through phone, text, and chat along with interpreter services in over 200 languages. These services can be accessed at 1-855-4VICTIM or [www.chat.victimconnect.org](http://www.chat.victimconnect.org). The anti-sexual assault organization, RAINN, operates a national hotline at 1-800-656-4673 with access to a range of free services.

The agency-wide Americans with Disabilities Act Coordinator was in attendance and participated in the on-site visit phase of the audit process. The auditor reviewed the agency and facility operating policies and procedures (policy 038.3) along with secondary documentation submitted with the pre-audit questionnaire; observed agency and facility practices; reviewed data and documentation provided by the agency and facility staff; and interviewed offenders/inmates and staff during an on-site visit and tour of the facility. The agency and facility meet the standard for the relevant rating period.

Code of Virginia, Policy, Materials, Interviews and Other Evidence Reviewed:

- Code of Virginia §18.2-61, §18.2-64.2, §18.2-67.10, §18.2-67.4.
- Virginia Department of Corrections Operating Procedure 038.3: Prison Rape Elimination Act dated May 1, 2016.
- Optimal Phone Interpreters, Inc. (866) 380-9410 ext. 157.
- Vernacular Language Services (foreign language telephone interpreter services).
- Purple Communications, Inc., 1540 Santa Rosa Road, Richmond, Virginia (sign language translation and video remote interpreting services)
- Interviews with Inmates, agency Director, Prison Rape Elimination Act Coordinator, regional Prison Rape Elimination Act Analyst, facility Compliance Manager, Assistant Warden, agency Americans with Disability Act Coordinator, and facility staff.
- Virginia Department of Corrections submitted Pre-Audit Questionnaire.
- Sexual Assault and Prevention Awareness Brochure (English).

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

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

**Auditor discussion, including 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 standard. These recommendations must be included in the Final Report, accompanied by information on specific**

## **corrective actions taken by the facility.**

Auditor comments: Per agency and facility operational policies and procedures (102.3 and 102.3), “The DOC shall not hire or promote anyone who may have contact with offenders, and shall not enlist the services of any contractor who may have contact with offenders, who: (§115.17[a]) 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); Has been civilly or administratively adjudicated to have engaged or 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. The DOC shall 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 offenders (§115.17[b]). Before hiring new employees who may have contact with offenders, the DOC shall: (§115.17[c]) Perform a criminal background records check. 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. All DOC facilities shall also perform a criminal background records check before enlisting the services of any contractor who may have contact with offenders (§115.17[d]). All DOC community based administrative offices should perform a criminal background records check before enlisting the services of any contractor who will have unescorted contact with offenders. Material omissions regarding misconduct, or the provision of materially false information, shall be grounds for termination (§115.17[g]). The DOC shall conduct criminal background records checks at least every five years of current employees and contractors. A criminal background record check will be conducted annually for sensitive specialist assignments. The Human Resources Officer for each organizational unit shall ensure criminal background records checks are conducted and documented as required (§115.17[e]). The Human Resource Officer shall document in the Access Employee Database that the criminal records check (VCIN) was conducted”.

In accordance with agency operational policies and procedures (040.1), “Employees who have been charged or found liable in a civil or disciplinary proceeding to have engaged or attempted to engage in sexual activity by force (overt or implied threats of force, coercion, or if the victim did not consent or was unable to consent) shall inform their organizational unit head immediately if received during normal working hours or the next working day if received during non-working hours. Notification shall be documented on a Criminal Offense/Moving Traffic Violation Notification 040\_F1 (§115.17[f])”. “Failure to report or material omissions regarding charges or convictions 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) in the community, or charged or found liable in a civil or administrative proceeding for sexual activity by force shall be grounds for termination (§115.17[g])”. Per agency operational policy (057.1), “Information on substantiated allegations of sexual abuse or sexual harassment involving a former employee shall be furnished to any institutional employer for whom which the employee has applied to work provided the request is written (§115.17 [h])”.

The auditor specifically interviewed facility uniformed security section staff per random sampling and staff on alternative shifts. Staff are required to perform self-assessments as part of the annual employee performance review and specifically required continuing affirmative duty to disclose sexual misconduct per §115.17 [f]. The auditor reviewed the agency policies and procedures (agency policies 040.1, 057.1, 102.2, 102.3, 135.1, 145.2, 260.1); observed agency and facility practices; reviewed data and documentation provided by the facility staff; and interviewed staff during an on-site visit and tour of the facility. The auditor was impressed with the quality of staff hires for the facility. The auditor determination is that the agency and facility exceeds the standard for the relevant review period. This determination is based in part on the facility Human Resource Officer showing the auditor detailed documentation, records, and logs for full confirmation along with noting the quality of staff hires during the on-site interview phase of the audit process.

### **Code of Virginia, Policy, Materials, Interviews and Other Evidence Reviewed:**

- Code of Virginia §2.2-2817, §8.01 195.1, §53.1-17, §2.2-9000, §2.2-3700, §2.2-3800, §2.2-1201, §38.2-508, §19.2-389, §2.2-2900, §2.2-4300, §53.1-179, §53.1-10, §18.2-61, §18.2-64.2, §18.2-67.10, §18.2-67.4.
- Virginia Department of Corrections Operating Procedure 038.3: Prison Rape Elimination Act dated May 1, 2016.
- Virginia Department of Corrections Operating Procedure 040.1: Litigation dated November 1, 2015.
- Virginia Department of Corrections Operating Procedure 057.1: Personnel Records dated January 1, 2016.
- Virginia Department of Corrections Operating Procedure 102.2: Recruitment, Selection, and Appointment dated June 1, 2015.
- Virginia Department of Corrections Operating Procedure 102.3: Background Investigation Program dated November 1, 2014.
- Virginia Department of Corrections Operating Procedure 135.1: Standards of Conduct dated October 1, 2015.
- Virginia Department of Corrections Operating Procedure 145.2: Employee Performance Management dated January 1, 2017.
- Virginia Department of Corrections Operating Procedure 260.1: Procurement of Goods and Services dated December 1, 2016.
- Contractor, Current Staff, New Hires, and Promotions Listings from facility confirming compliance with standard.
- Interviews with agency Director, Prison Rape Elimination Act Coordinator, regional Prison Rape Elimination Act Analyst, facility Compliance Manager, Assistant Warden, facility Human Resource Officer, and facility staff.
- Virginia Department of Corrections submitted Pre-Audit Questionnaire.

## **Standard 115.18 Upgrades to facilities and technologies**

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

**Auditor discussion, including 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 standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

Auditor comments: In accordance with the agency operational policy and procedure (801.1), “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 (§115.18[a]). 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 (§115.18[b])”.

The Pocahontas State Correctional Center is a modern facility which was constructed in 2007 and has a comprehensive video camera and monitoring system located throughout the facility. The design and construction of the facility is based on nationally recognized correctional systems. The auditor noted that the specific design of the facility was conducive to active direct staff supervision which is in accordance with the Prison Rape Elimination Act standards. The auditor reviewed all 192 cameras along with schematic placements during the on-site visit portion of the audit process. The facility recently added four (4) cameras as a result of their annual staffing plan review in accordance with the Prison Rape Elimination Act standards. The facility also has a motion detection sensor system.

The auditor interviewed the facility Assistant Warden and Chief of Security and they confirmed that the facility takes offender/inmate safety into consideration in reference to any facility upgrades. The agency and facility considers a variety of factors when upgrading technology in the facility including primarily sight lines, blind spots, and inaccessible areas. Interviews with facility staff indicate that placement of cameras is discussed frequently to keep enhancing safety and security for all offenders/inmates and staff. The auditor reviewed the facility policy and procedure (801.1); observed facility practices; reviewed data and documentation provided by the facility staff; and interviewed staff during an on-site visit and tour of the facility. The auditor determination is that the agency and facility exceeds the standard for the relevant review period. The auditor determination for exceeding the standard is based in part on the large number of cameras (192) located throughout the facility and quality of the supervision and monitoring system which compliments and is in accordance with the Prison Rape Elimination Act standards.

Code of Virginia, Policy, Materials, Interviews and Other Evidence Reviewed:

- Code of Virginia §53.1-10.
- Virginia Department of Corrections Operating Procedure 801.1: Facility Physical Plant and Sanitation dated December 1, 2105.
- Pocahontas State Correctional Center camera listing, placement, and schematic.
- Interviews with Security staff, agency Director, Prison Rape Elimination Act Coordinator, regional Prison Rape Elimination Act Analyst, facility Compliance Manager, Assistant Warden, Chief of Security, and facility staff.
- Virginia Department of Corrections submitted Pre-Audit Questionnaire.

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

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

**Auditor discussion, including 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 standard. These**

**recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

Auditor comments: Per agency operational policy and procedure (030.4, 038.3, 730.2), “Evidence Protocol and Forensic Medical Examinations: The Special Investigations Unit (SIU) has an established uniform evidence protocol which maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions (§115.21[a]). The established protocol is developmentally appropriate for youth and is based on or similar to other comprehensive and authoritative protocols developed after 2011 (115.21[b]). If requested by the victim, the victim advocate, qualified agency staff member, or qualified community-based organization staff member shall accompany and support the victim through the forensic medical examination process and investigatory interview (§115.21[e]). With the victim’s consent, forensic evidence will be collected by specially trained professional medical practitioners using a kit approved by the appropriate authority (PERK/Physical Evidence Recovery Kit recommended). Although it is recommended that a PERK kit is collected within 72 hours it should be used beyond that time whenever there is a possibility of evidence remaining”.

In accordance with agency operational policy and procedure (720.7), “A history is taken by a health care professional who will conduct a forensic medical examination to document the extent of physical injury. Such examinations shall be performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) where possible. There will be no financial cost to the offender for this examination. (§115.21[c]). As requested by the victim, the victim advocate, qualified agency staff member, or qualified community-based organization staff member shall accompany and support the victim through the forensic medical examination process and investigatory interviews and shall provide emotional support, crisis intervention, information, and referrals (§115.21[e]). A qualified DOC Mental Health/ counseling staff member or a qualified community-based staff member shall be an individual who has been screened for appropriateness to serve in this role and has received education concerning sexual assault and forensic examination issues in general. (§115.21[h])”.

The agency and facility contracts with Mountain States Health Alliance (MSHA), Contract Number DOC-13-102, renewed for the period of September 1, 2016 to August 31, 2017. Specifically, per the contract, “provide qualified, nationally registered, Virginia licensed Sexual Assault Nurse Examiners (SANEs). The facility and agency reported no forensic medical exams conducted during the past 12 months and meets the standard. The agency and facility contracts with the Virginia Sexual & Domestic Violence Action Alliance, Contract Number DOC-13-065, renewal date January 23, 2017. Specifically, per the contract, “provide statewide services including hotline reporting for sexual assaults, advocacy services for offenders and training for staff and volunteers in accordance with State and federal laws”. The agency and facility also maintains a listing and schedule of volunteer victim advocates along with a forensic nurse listing by region.

The auditor specifically interviewed facility medical staff and the Health Authority/Department Head. The auditor reviewed the agency policies and procedures; observed agency and facility practices; reviewed data and documentation provided by the facility staff; and interviewed staff during an on-site visit and tour of the facility. The agency and facility meet the standard and complies with the standard for the relevant review period.

Code of Virginia, Policy, Materials, Interviews and Other Evidence Reviewed:

- Code of Virginia §2.2-310, §53.1-32, §53.1-10, §18.2-61, §18.2-64.2, §18.2-67.10, §18.2-67.4.
- Virginia Department of Corrections Operating Procedure 038.3: Prison Rape Elimination Act dated May 1, 2016.
- Virginia Department of Corrections Operating Procedure 030.4: Special Investigations Unit dated November 1, 2015.
- Virginia Department of Corrections Operating Procedure 720.7: Emergency Medical Equipment and Care dated October 1, 2016.
- Virginia Department of Corrections Operating Procedure 730.2: Mental Health Services: Screening, Assessment, and Classification dated December 1, 2015.
- Pocahontas State Correctional Center memorandum from facility warden dated February 1, 2017.
- Mountain States Health Alliance (MSHA) Contract Number DOC-13-102 renewal dates from September 1, 2016 to August 31, 2017.
- Virginia Sexual & Domestic Violence Action Alliance Contract Number DOC-13-065 renewal date January 23, 2017.
- Volunteer Advocate listing and schedule.
- Virginia Forensic Nurse Examiners listing.
- Special Investigations Unit (SIU) and Physical Evidence Recovery Kit (PERK).
- Interviews with agency Director, facility medical staff, Prison Rape Elimination Act Coordinator, regional Prison Rape Elimination Act Analyst, facility Compliance Manager, Assistant Warden, Health Authority, Investigator, and facility staff.
- Virginia Department of Corrections submitted Pre-Audit Questionnaire.

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

- Exceeds Standard (substantially exceeds requirement of standard)

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

**Auditor discussion, including 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 standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

Auditor comments: In accordance with agency and facility operational policy and procedure (030.4 and 038.3), "Prison Rape Elimination Act (PREA) Investigations. The Facility Unit Head shall ensure that an administrative and/or criminal investigation is completed for all allegations of sexual abuse and sexual harassment. (§115.22[a]). When the Facility Unit Head receives notification from another facility that an offender was sexually abused while confined at that facility, they shall ensure that the allegation is investigated in accordance with the PREA Standards. All allegations of sexual abuse and sexual harassment, including third-party and anonymous reports must be immediately reported to the facility designated investigator who will conduct an initial investigation and will immediately notify the PREA Analyst of the allegation. 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 (§115.22[b]). Special Investigations Unit (SIU) investigators will receive special training in sexual abuse investigations before conducting PREA investigations. In addition to the general PREA training provided to all employees, investigators shall receive specialized training in conducting sexual abuse investigations in confinement settings. Specialized training shall include: Techniques for interviewing sexual abuse victims and proper use of Miranda and Garrity warnings. Sexual abuse evidence collection in confinement settings. Criteria and evidence required to substantiate a case for administrative action or prosecution referral".

The agency Special Investigations Unit has authority to conduct investigations into all incidents as well as allegations of sexual abuse or sexual harassment (§115.22[d]). Per agency and facility policy 030.4, "Conduct administrative and/or criminal investigations into allegations of sexual abuse or sexual harassment in DOC facilities in accordance with this operating procedure (§115.22[d])".

The auditor interviewed the facility Assistant Warden and Investigator, and they confirmed that the agency ensures that an administrative or criminal investigation is completed for all allegations of sexual abuse or sexual harassment. The auditor received a written memorandum from the facility warden confirming that no cases were referred to the agency Special Investigations Unit for criminal investigation during the previous 12 month period. The Pocahontas State Correctional Center reported 23 allegations of sexual abuse or sexual harassment in the past 12 months that were investigated. The auditor reviewed all 23 allegations and all were handled via administrative investigative process. The auditor reviewed the agency and facility policies and procedures (policy 038.3, 030.4, 720.7, 730.2); observed agency practices; reviewed data provided by the facility staff; and interviewed offenders/inmates and staff during an on-site visit and tour of the facility. The agency and facility meet the standard and complies with the standard for the relevant review period.

Code of Virginia, Policy, Materials, Interviews and Other Evidence Reviewed:

- Code of Virginia §2.2-310, §53.1-10, §18.2-61, §18.2-64.2, §18.2-67.10, §18.2-67.4.
- Virginia Department of Corrections Operating Procedure 038.3: Prison Rape Elimination Act dated May 1, 2016.
- Virginia Department of Corrections Operating Procedure 030.4: Special Investigations Unit dated November 1, 2015.
- Virginia Department of Corrections Operating Procedure 720.7: Emergency Medical Equipment and Care dated October 1, 2016.
- Virginia Department of Corrections Operating Procedure 730.2: Mental Health Services: Screening, Assessment, and Classification dated December 1, 2015.
- Pocahontas State Correctional Center memorandum from facility warden dated February 1, 2017.
- Mountain States Health Alliance (MSHA) Contract Number DOC-13-102 renewal dates from September 1, 2016 to August 31, 2017.
- Virginia Sexual & Domestic Violence Action Alliance Contract Number DOC-13-065 renewal date January 23, 2017.
- Volunteer Advocate listing and schedule.
- Virginia Forensic Nurse Examiners listing.
- Special Investigations Unit (SIU) and Physical Evidence Recovery Kit (PERK).
- Interviews with agency Director, facility medical staff, Prison Rape Elimination Act Coordinator, regional Prison Rape Elimination Act Analyst, facility Compliance Manager, Assistant Warden, Investigator, and facility staff.
- Virginia Department of Corrections submitted Pre-Audit Questionnaire.

## Standard 115.31 Employee training

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

**Auditor discussion, including 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 standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

Auditor comments: In accordance with agency and facility operational policy and procedure (102.6), "Prison Rape Elimination Act (PREA) Orientation – Employees: The agency shall train all employees who may have contact with offenders on: (§115.31[a]) Its zero-tolerance policy for sexual abuse and sexual harassment; How to fulfill their responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures; Offenders' right to be free from sexual abuse and sexual harassment; The right of offenders and employees to be free from retaliation for reporting sexual abuse and sexual harassment; The dynamics of sexual abuse and sexual harassment in confinement; The common reactions of sexual abuse and sexual harassment victims; How to detect and respond to signs of threatened and actual sexual abuse; How to avoid inappropriate relationships with offenders; How to communicate effectively and professionally with offenders, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming offenders; and How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities. 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 (§115.31[b]). The agency shall document through employee signature or electronic verification that employees understand the training they have received (§115.31[d])."

Per agency and facility operational policy and procedure (350.2), "Prison Rape Elimination Act (PREA) In-service (§115.31[a, c]). In-service training programs shall include refresher training on current DOC sexual abuse and sexual harassment policies and procedures and will cover the following areas: Its zero-tolerance policy for sexual abuse and sexual harassment; How to fulfill responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures; Offenders' right to be free from sexual abuse and sexual harassment; The right of offenders and employees to be free from retaliation for reporting sexual abuse and sexual harassment; The dynamics of sexual abuse and sexual harassment in confinement; The common reactions of sexual abuse and sexual harassment victims; How to detect and respond to signs of threatened and actual sexual abuse; How to avoid inappropriate relationships with offenders (Operating Procedure 130.1, Rules of Conduct Governing Employees Relationships with Offenders); How to communicate effectively and professionally with offenders, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming offenders; and how to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities. Such training shall be tailored to the gender of the offenders at the employee's facility. The employee shall receive additional training, to include gender diversity, if the employee is reassigned from a facility that houses only male offenders to a facility that houses only female offenders, or vice versa (§115.31[b]). The agency shall document, through employee signature or electronic verification, that employees understand the training they have received (§115.31[d]). Security Staff In-Service: Corrections Officers (and any other offender care workers at Detention/Diversion Centers) shall receive at least 40 hours of training annually. This training shall include at a minimum the following areas: Standards of conduct/ethics. Security/safety/fire/medical/emergency procedures. Supervision of offenders including training on the current DOC sexual abuse and sexual harassment policies and procedures (§115.31[c])."

The auditor interviewed the facility Assistant Warden, and he confirmed that the agency ensures and documents staff training in accordance with the standard. The auditor received staff training rosters, curriculum, and lesson plans during the previous 12 month period. The Pocahontas State Correctional Center maintains a robust training program. The auditor reviewed the agency and facility policies and procedures (policy 102.6 and 350.2); observed agency practices; reviewed data provided by the facility staff; and interviewed offenders/inmates and staff during an on-site visit and tour of the facility. The auditor determination is that the agency and facility exceeds the standard for the relevant review period. The agency level Prison Rape Elimination Act Coordinator and regional Analysts initiated and completed two statewide training conferences for all of the facility Prison Rape Elimination Act Compliance Managers as well as other training initiatives.

Code of Virginia, Policy, Materials, Interviews and Other Evidence Reviewed:

- Code of Virginia §2.2-2900, §9.1-102, §19.2-81, §53.1-29, §53.1-10, §18.2-61, §18.2-64.2, §18.2-67.10, §18.2-67.4.
- Virginia Department of Corrections Operating Procedure 102.6: Staff Orientation dated November 1, 2016.
- Virginia Department of Corrections Operating Procedure 350.2: Training and Development dated May 1, 2015.

- Virginia Department of Corrections Staff Training Rosters, Curriculum, Lesson Plans, Tests, Signed Acknowledgement Forms.
- Interviews with agency Director, facility training staff, Prison Rape Elimination Act Coordinator, regional Prison Rape Elimination Act Analyst, facility Compliance Manager, Assistant Warden, and facility staff.
- Virginia Department of Corrections submitted Pre-Audit Questionnaire.

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

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

**Auditor discussion, including 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 standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

Auditor comments: Per agency operating policy and procedure, 027.1, 038.3, 102.6, "The Volunteer Coordinator shall ensure that all volunteers who have contact with offenders have been trained on their responsibilities under the DOC sexual abuse and sexual harassment prevention, detection, and response policies and procedures (§115.32[a]). The level and type of training provided to volunteers shall be based on the services they provide and level of contact they have with offenders, but all volunteers who have contact with offenders shall be notified of the DOC's zero-tolerance policy regarding sexual abuse and sexual harassment and informed how to report such incidents (§115.32[b]). A briefing on security procedures, privacy laws, chain of command, basic knowledge of criminal behavior, and other related topics, as pertinent and applicable. All 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[a]). At minimum, such persons should be provided with a copy of the brochure A Guide to Maintaining Appropriate Boundaries with Offenders. Long-term, full-time contract staff with offender contact (such as privatized medical provider staff) shall comply with the same orientation and training requirements as equivalent DOC employees. Volunteers who will have no offender contact other than under close direct supervision of a corrections employee or a trained Volunteer should be provided:

- a. Rules for Volunteers.
- b. A Guide to Maintaining Appropriate Boundaries with Offenders (see Operating Procedure 038.3, Prison Rape Elimination Act (PREA)) as notification of the DOC's zero-tolerance policy regarding sexual abuse and sexual harassment and information on how to report such incidents (§115.32[b]).
- c. Receipt and understanding of these materials will be documented by the volunteer's signature on the Rules for Volunteers (§115.32[c])."

The auditor noted that the agency Prison Rape Elimination Act Coordinator defined three different levels of volunteer/contractor/offender contact related to the standard. The auditor stressed the importance of volunteer and contractor training with the Assistant Warden and Prison Rape Elimination Act Compliance Manager during the on-site visit phase of the audit process. The auditor interviewed both volunteer and contractor staff assigned to the facility and confirmed receipt and understanding of specific Prison Rape Elimination Act training requirements. The auditor was impressed with the facility contract staff. The auditor reviewed the agency policies and procedures (policies 102.6, 350.2, 027.1, 038.3); observed agency and facility practices; reviewed data and documentation provided by the facility staff; and interviewed volunteers and contractors during an on-site visit and tour of the facility. The agency and facility meet the standard for the relevant review period.

Code of Virginia, Policy, Materials, Interviews and Other Evidence Reviewed:

- Code of Virginia §2.2-608, §2.2-2823, §19.2-389, §2.2-2900, §9.1-102, §19.2-81, §53.1-30, §53.1-10, §18.2-61, §18.2-64.2, §18.2-67.10, §18.2-67.4.
- Virginia Department of Corrections Operating Procedure 102.6: Staff Orientation dated November 1, 2016.
- Virginia Department of Corrections Operating Procedure 350.2: Training and Development dated May 1, 2015.
- Virginia Department of Corrections Operating Procedure 027.1: Volunteer Program dated May 1, 2013.
- Virginia Department of Corrections Operating Procedure 038.3: Prison Rape Elimination Act dated May 1, 2016.
- Virginia Department of Corrections Volunteer and Contractor Training Rosters, Curriculum, Lesson Plans, Tests, Signed Acknowledgement Forms.

- Interviews with agency Director, facility training staff, volunteers, contractors, Prison Rape Elimination Act Coordinator, regional Prison Rape Elimination Act Analyst, facility Compliance Manager, Assistant Warden, and facility staff.
- Virginia Department of Corrections submitted Pre-Audit Questionnaire.
- Handout/Brochure: A Guide to Maintaining Appropriate Boundaries with Offenders for Contractors and Volunteers.
- PowerPoint Training for Volunteers and Contractors.
- Memorandum from Prison Rape Elimination Act Coordinator defining 3 levels of volunteer/contractor contact with offenders.

### **Standard 115.33 Inmate education**

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

**Auditor discussion, including 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 standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

Auditor comments: Per agency operating policy and procedure, 038.3 and 810.2, "When an offender enters a DOC facility from a jail, the offender shall receive information explaining the DOC's zero-tolerance policy for sexual abuse and sexual harassment and instruction on how to report incidents or suspicions of sexual abuse or sexual harassment (§115.33[a]). This information shall be communicated verbally and in writing, in language clearly understood by the offender. Immediately upon intake to DOC, the offender shall receive an initial PREA training, utilizing the Preventing Sexual Abuse & Sexual Assault - Trainer Outline - Intake. The offender will watch Section 1 of the PREA: 'What You Need to Know video' and a copy of the Sexual Assault Awareness and Prevention brochure (Spanish version available and hearing impaired accomodation) that includes the Sexual Assault Hotline number will be provided. Within 10 days of arrival, the offender shall receive a comprehensive PREA training, utilizing the Preventing Sexual Abuse & Sexual Assault - Trainer Outline - Comprehensive including use of the videos PREA: 'What You Need to Know' and 'Breaking the Silence of Offender Sexual Abuse'. (§115.33[b]). Facilities shall make arrangements for offenders that speak languages other than English or Spanish, and with offenders who are deaf, visually impaired, or otherwise disabled, as well as to offenders with limited reading skills, to receive training and materials in a language understood by the offender (§115.33[d]). The offender shall document receiving the Sexual Assault Awareness and Prevention brochure and both of the Preventing Sexual Abuse and Sexual Assault Trainings (Intake and Comprehensive) by signing the Acknowledgement of Preventing Sexual Abuse and Sexual Assault Training (Spanish accomodation). The signed Acknowledgement will be uploaded as an external document in VACORIS (agency computer-based operating system), identified as a Special Entry Note (§115.33[e]). It is mandatory that offenders attend both trainings. Offenders refusing shall be charged with Offense Code 200, per Operating Procedure 861.1, Offender Discipline, Institutions. Information shall include the following topics:

1. Definition of sexual misconduct/assault, and behaviors prohibited by staff, contractors, volunteers and offenders.
2. DOC Zero Tolerance Policy.
3. Prevention/ Intervention.
4. Self-protection.
5. Reporting sexual abuse/assault.
6. Treatment and counseling.
7. Offender telephone sexual abuse Hotline Number #55.

Offenders received from another DOC facility via transfer will be provided a copy of the Sexual Assault Awareness and Prevention brochure (Spanish version and hearing impaired accomodation) that includes the Sexual Assault Hotline number. If the Acknowledgement of Preventing Sexual Abuse and Sexual Assault Training (Spanish accomodation) is not found in VACORIS (agency computer-based operating system), the offender shall be provided the comprehensive PREA training as described above for a new intake (§115.33[c]). In addition to providing such education, each facility shall ensure that key information is continuously and readily available or visible to offenders through posters, offender handbooks, or other written formats (§115.33[f])."

The auditor received a hard copy of the Pocahontas State Correctional Center Offender Orientation Manual during the on-site visit phase of the audit process. Per the Orientation Manual, "In accordance with the Prison Rape Elimination Act (PREA), Pocahontas State Correctional Center has zero tolerance for any form of sexual misconduct, sexual assault or sexual harassment, regardless of whether the perpetrator is another offender or staff member, contractor or volunteer. Reports of sexual abuse or sexual harassment may be reported to any staff

member, in writing on an Offender Request Form, Informal Complaint, Regular Grievance or Emergency Grievance. You can also report sexual abuse or sexual harassment by dialing #55 (Sexual Abuse Hotline) on the offender telephones. This line is for reporting sexual abuse only and not for any other miscellaneous calls. By reporting such incidents, you will assist staff in the prevention/detection of sexual abuse/sexual harassment. You can choose to report anonymously or have a third party, such as a friend or family member, report on your behalf. There is no time limit for reporting sexual abuse/sexual harassment. All allegations must be investigated. Appropriate measures will be taken to protect you from retaliation for reporting or cooperating with a sexual abuse/sexual harassment investigation. Victims of sexual abuse are offered medical and mental health treatment at no cost, to include a forensic medical exam if necessary. Should you require emotional support following an incident of sexual abuse or sexual harassment, you may dial #55 and select option 2 for emotional support services. Victim advocates are also available for emotional support needs, accompaniment during a forensic exam and investigative interviews.”

Prison Rape Elimination Act offender/inmate education options were duplicative to include but not limited to postings on walls throughout the facility, brochures, handbook, pamphlet, and videos. During the intake process, offenders/inmates receive information explaining the agency’s zero-tolerance policy regarding sexual abuse and sexual harassment and how to report incidents or suspicions of sexual abuse or sexual harassment. Each offender/inmate receives additional written information in the form of an offender/inmate handbook. The agency and facility provides a comprehensive education to inmates regarding their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents, and regarding agency policies and procedures for responding to such incidents.

The interviews of offenders/inmates reflected that they were aware of and understood the Prison Rape Elimination Act protections and the agency’s zero tolerance policy. The auditor also received offender/inmate signed acknowledgement forms confirming the training. Offenders/Inmates receive written material and handbook at intake that provides detailed information about Prison Rape Elimination Act protections and the multiple ways to report sexual abuse or harassment. The auditor reviewed the agency policies and procedures (policy 038.3 and 810.2); observed facility practices; reviewed data and documentation provided by the facility staff; and interviewed offenders/inmates and staff during an on-site visit and tour of the facility. The auditor determination is that the agency and facility exceeds the standard for the relevant review period due in part to the multi-layered process of offender/inmate education.

Code of Virginia, Policy, Materials, Interviews and Other Evidence Reviewed:

- Code of Virginia §53.1-10, §53.1-23, §53.1-32.1, §53.1-32.2, §18.2-61, §18.2-64.2, §18.2-67.10, §18.2-67.4.
- Virginia Department of Corrections Operating Procedure 810.2: Transferred Offender Receiving and Orientation dated May 1, 2016.
- Virginia Department of Corrections Operating Procedure 038.3: Prison Rape Elimination Act dated May 1, 2016.
- Pocahontas State Correctional Center Rosters, Curriculum, Lesson Plans, Tests, Signed Acknowledgement Forms.
- Interviews with agency Director, facility intake staff, facility counselors, unit managers, Prison Rape Elimination Act Coordinator, regional Prison Rape Elimination Act Analyst, facility Compliance Manager, Assistant Warden, and facility staff.
- Virginia Department of Corrections submitted Pre-Audit Questionnaire.
- Handout/Brochure, Posters, Information Material.

### **Standard 115.34 Specialized training: Investigations**

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

**Auditor discussion, including 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 standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

Auditor comments: Per agency operational policy and procedure, 030.4 and 350.2, “In addition to the general PREA training provided to all employees, investigators shall receive specialized training in conducting sexual abuse investigations in confinement settings. Specialized training shall include: (§115.34[a])

1. Techniques for interviewing sexual abuse victims.
2. Proper use of Miranda and Garrity warnings.

3. Sexual abuse evidence collection in confinement settings.
4. Criteria and evidence required to substantiate a case for administrative action or prosecution referral.

The PREA Compliance Manager shall maintain documentation that the required specialized training in conducting sexual abuse investigations has been completed by the investigators (§115.34[a]) (§115.34[c])."

The Virginia Department of Corrections level investigators and facility level investigator do a good job conducting facility level investigations. The auditor confirmed that they received specialized training in accordance with the standard. Specifically, the investigative staff completed investigator training from The Moss Group in Collaboration with the National Prison Rape Elimination Act Resource Center which fully complies with the standard. Any cases that involve criminal investigations are referred to the Virginia Department of Corrections Special Investigations Unit. Specialized training included such things as techniques for interviewing sexual abuse victims, proper use of Miranda and Garrity warnings, sexual abuse evidence collection in confinement settings, and the criteria and evidence required to substantiate a case for administrative action or prosecution referral. The agency and facility training is in accordance with the Prison Rape Elimination Act standard.

The auditor reviewed the agency operational policies and procedures (policy 030.4 and 350.2); observed agency and facility practices; reviewed data and documentation provided by the agency and facility staff; reviewed facility investigation files; and interviewed offenders/inmates and staff during an on-site visit and tour of the facility. The agency and facility meets the standard and complies with the standard for the relevant review period.

Code of Virginia, Policy, Materials, Interviews and Other Evidence Reviewed:

- Code of Virginia §9.1-102; §19.2-81.2; §53.1-10; §53.1-29; §9.1-102; §19.2-81.2; §53.1-10; §53.1-29; §18.2-61; §18.2-64.2; §18.2-67.10; §18.2-67.4.
- Virginia Department of Corrections Operating Procedure 030.4: Special Investigations Unit.
- Virginia Department of Corrections Operating Procedure 350.2: Training and Development.
- The Moss Group in Collaboration with the National Prison Rape Elimination Act Resource Center PowerPointe Training for agency investigators.
- Interviews with agency Director, facility investigator, Prison Rape Elimination Act Coordinator, regional Prison Rape Elimination Act Analyst, facility Compliance Manager, Assistant Warden, and facility staff.
- Virginia Department of Corrections submitted Pre-Audit Questionnaire.
- Training Agenda Confirmation.

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

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

**Auditor discussion, including 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 standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

Auditor comments: The auditor verified specialized training completion for the facility medical and mental health care staff. The auditor interviewed the medical and mental health staff and was thoroughly impressed with their knowledge and expertise. The medical and mental health staff interviewed were knowledgeable in reference to the Prison Rape Elimination Act training. The agency and facility ensures that all full, part-time, and contract medical and mental health care practitioners who work regularly with offenders/inmates have been trained in:

- 1) How to detect and assess signs of sexual abuse and sexual harassment;
- 2) How to preserve physical evidence of sexual abuse;
- 3) How to respond effectively and professionally to victims of sexual abuse/harassment;
- 4) How and to whom to report allegations or suspicions of sexual abuse and sexual harassment;
- 5) Recognize the special medical and mental health needs of all offenders/inmates;

- 6) Factors to consider in an inmates' risk of sexual victimization; and
- 7) Training shall be documented to denote employee understanding of material and verified through employee signature.

Specifically, the agency operational policy and procedure, 701.1, states, "The Health Authority and/or Institutional Training Officer shall document that all full and part-time medical and mental health staff who work regularly in DOC facilities receives specialized training in: (§115.35[a, c]) How to detect and assess signs of sexual abuse and sexual harassment; How to preserve physical evidence of sexual abuse; How to respond effectively and professionally to victims of sexual abuse and sexual harassment; and How and to whom to report allegations or suspicions of sexual abuse and sexual harassment." Per agency operational policy and procedure, 720.7, 102.6, and 350.2, "All health care providers shall be trained in appropriate response to allegations of sexual abuse and appropriate procedures to preserve relevant evidence (§115.35[b])."

The auditor reviewed the agency policies and procedures (policy 102.6, 350.2, 701.1, 720.7); observed agency and facility practices; reviewed data and documentation provided by the agency and facility staff; and interviewed inmates and staff during an on-site visit and tour of the facility. Specifically, the auditor confirmed completion of the basic and specialized National Institute of Corrections Prison Rape Elimination Act courses in accordance with the standard. The agency and facility meets the standard and complies with the standard for the relevant review period.

#### Code of Virginia, Policy, Materials, Interviews and Other Evidence Reviewed:

- Code of Virginia §53.1-32; §9.1-102; §19.2-81.2; §53.1-10; §53.1-29; §2.2-2900 et. seq., §53.1-10; §53.1-32.
- Virginia Department of Corrections Operating Procedure 102.6: Staff Orientation dated November 1, 2016.
- Virginia Department of Corrections Operating Procedure 350.2: Training and Development dated May 1, 2015.
- Virginia Department of Corrections Operating Procedure 701.1: Health Services Administration dated March 1, 2015.
- Virginia Department of Corrections Operating Procedure 720.7: Emergency Medical Equipment and Care dated October 1, 2016.
- Pocahontas State Correctional Center Warden's Memorandum dated February 1, 2017 confirming access to forensic nursing examiners.
- Interviews with agency Director, facility Health Authority, facility nurses, Prison Rape Elimination Act Coordinator, regional Prison Rape Elimination Act Analyst, facility Compliance Manager, Assistant Warden, and facility staff.
- Virginia Department of Corrections submitted Pre-Audit Questionnaire.
- Training Rosters, Sign-in Sheets for Training, Certificates of Training.
- National Institute of Corrections basic and specialized training certificates to include the Medical Health Care for Sexual Assault Victims in a Confinement Setting.

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

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

**Auditor discussion, including 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 standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

Auditor comments: The auditor interviewed the facility Prison Rape Elimination Act Compliance Manager and Intake Staff, and they confirmed having a secure computer-based system for inmate's risk assessments. The auditor completed a required webinar in April 2016 from the Prison Rape Elimination Act Resource Center in reference to the inmate intake process. Based on interviews with random offenders/inmates and intake staff, all offenders/inmates are assessed during an intake screening and upon transfer to another facility for their risk of being sexually abused by other offenders/inmates or sexually abusive toward other offenders/inmates. Intake screening shall ordinarily take place within 72 hours of arrival and more often is completed within 24 to 48 hours of arrival. Such assessments shall be conducted using an objective screening instrument. The intake screening shall consider, at a minimum, the following criteria to assess inmate for risk of sexual victimization:

- 1) Whether the offender/inmate has a mental, physical, or developmental disability;
- 2) The age of the offender/inmate;

- 3) The physical build of the offender/inmate;
- 4) Whether the offender/inmate has previously been incarcerated;
- 5) Whether the offender's/inmate's criminal history is exclusively nonviolent;
- 6) Whether the offender/inmate has prior convictions for sex offenses against an adult or child;
- 7) Whether the offender/inmate is or is perceived to be gay, bisexual, transgender, intersex, or gender nonconforming;
- 8) Whether the offender/inmate has previously experienced sexual victimization;
- 9) The offender's/inmate's own perception of vulnerability; and
- 10) Whether the offender/inmate is detained solely for civil immigration purposes.

Any other specific information about individual offenders/inmates that may indicate heightened needs for supervision, additional safety precautions, or separation from certain other offenders/inmates. The initial screening considers prior acts of sexual abuse, prior convictions for violent offenses, and history of prior institutional violence or sexual abuse, as known to the agency, in assessing offenders/inmates for risk of being sexually abusive. An offender's/inmate's risk level is reassessed from the offender's/inmate's arrival when warranted due to a referral, request, incident of sexual abuse, or receipt of additional information that bears on the offender's/inmate's risk of sexual victimization or abusiveness.

Specifically, per agency operational policy and procedure, 810.1, "A counselor or other non-clerical reception center staff shall assess all offenders during reception for their risk of being sexually abused by other offenders or sexually abusive toward other offenders (§115.41[a]). The assessment shall be completed and approved within 72 hours of arrival at the facility (§115.41[b]). Reception center staff will interview and evaluate all incoming offenders for High Risk Sexual Aggressor (HRSA) and/or High Risk Sexual Victim (HRSV) tendencies utilizing the results of the Classification Assessment in VACORIS (agency computer-based operating system) and available offender records (§115.41[c], §115.41[d], §115.41[e]). In order to ensure that sensitive information is not exploited to the inmate's detriment by staff or other inmates, responses to Classification Assessment questions regarding an offender's risk of sexual victimization and abusiveness shall only be disseminated in accordance with this operating procedure (§115.41[i]).

Notifications for offenders that score as a High Risk Sexual Victim (HRSV) and/or High Risk Sexual Aggressor (HRSA). For any offender scoring as a High Risk Sexual Aggressor (HRSA) or a High Risk Sexual Victim (HRSV), the person completing the Classification Assessment shall immediately notify the facility Senior QMHP for follow-up in accordance with Operating Procedure 730.2, Mental Health Services: Screening, Assessment, and Classification. For any offender that does not have an Assaultive Alert in VACORIS and scores as a High Risk Sexual Victim (HRSV) and/or High Risk Sexual Aggressor (HRSA), the person completing the Classification Assessment shall immediately notify the Shift Commander to review for appropriate bed/cell assignment. For any offender that does not have an Assaultive Alert in VACORIS and scores as a High Risk Sexual Victim (HRSV) and/or High Risk Sexual Aggressor (HRSA), the person completing the Classification Assessment shall immediately enter an Alert, type Assaultive, with the comment PREA HRSV or PREA HRSA.

The DOC shall use information from the Classification Assessment to inform housing, bed, work, education, and program assignments with the goal of keeping separate those offenders at high risk of being sexually victimized from those at high risk of being sexually abusive (§115.42[a]). When an offender indicates they are transgender or intersex during the Classification Assessment or at any time during their incarceration, a 'six month follow up' alert shall be placed in VACORIS. A Counselor or the staff member completing the Classification Assessment shall add the alert and notify mental health staff by email (§115.42[d]). Staff shall document that they asked the offender during the Classification Assessment if they feel vulnerable to being a victim of sexual abuse and record their response in the comments section. Staff shall document their perception of whether or not an offender appears to be gender nonconforming in the comments section by utilizing one of the below statements. (a) I perceive the offender to be gender non-conforming (b) I do not perceive the offender to be gender non-conforming. Offenders identified as HRSV shall not be placed in Special Housing 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 is no available alternative means of separation from likely abusers (§115.43[a]). If the facility cannot conduct an assessment immediately, the Shift Commander may place the offender in Special Housing on General Detention for no more than 24-hours while completing the assessment (§115.43[a]). The facility must clearly document the basis for the facility's concern for the offender's safety and the reason why no alternative means of separation can be arranged (§115.43[d]). Offenders may not be disciplined for refusing to answer or for not disclosing complete information in response to questions asked in the Classification Assessment interview (§115.41[h]). Within 21 days from the offender's arrival at the facility, the facility will reassess the offender's risk of victimization or abusiveness based upon any additional, relevant information received by the facility since the intake screening (§115.41[f]). The PREA Reassessment PREA Reassessment 810\_F1 shall be completed no sooner than 14 days. Completion of the Reassessment must be documented as a Special Entry in the Facility Notes section of VACORIS. The PREA Reassessment will be scanned and uploaded as an external document to the corresponding Special Entry note."

The auditor interviewed the facility staff responsible for offender/inmate intake screening. The intake staff acknowledged the importance of the offender/inmate intake screening process. The facility staff understood the process as well as the Prison Rape Elimination Act standard. The auditor reviewed the agency policies and procedures (policy 730.2, 810.1, 810.2, 861.1, PREA Reassessment Form); observed agency and facility practices; reviewed data and documentation provided by the agency and facility staff; and interviewed offenders/inmates and staff during an on-site visit and tour of the facility. The agency and facility meets the standard and complies with the standard for the

relevant review period.

Code of Virginia, Policy, Materials, Interviews and Other Evidence Reviewed:

- Code of Virginia §53.1-32; §53.1-21; §53.1-23; §53.1-23.2; §53.1-32.1; §53.1-32.2; §53.1-10; §53.1-25; §53.1-26; §53.1-32.01, §53.1-39; §53.1-188; §53.1-189; §53.1-202.4; §18.2-371.2; §18.2-390; §18.2-391.
- Virginia Department of Corrections Operating Procedure 730.2: Mental Health Services: Screening, Assessment, and Classification dated December 1, 2105.
- Virginia Department of Corrections Operating Procedure 810.1: Offender Reception and Classification dated December 1, 2015.
- Virginia Department of Corrections Operating Procedure 810.2: Transferred Offender Receiving and Orientation dated May 1, 2016.
- Virginia Department of Corrections Operating Procedure 861.1: Offender Discipline, Institutions dated January 1, 2016..
- Virginia Department of Corrections Prison Rape Elimination Act Coordinator's Memorandum dated April 30, 2015 confirming offender classification assessment.
- Interviews with agency Director, facility Intake Staff, Prison Rape Elimination Act Coordinator, regional Prison Rape Elimination Act Analyst, facility Compliance Manager, Assistant Warden, and facility staff.
- Virginia Department of Corrections submitted Pre-Audit Questionnaire.
- Virginia Department of Corrections Prison Rape Elimination Act 30 Day Reassessment Form.

**Standard 115.42 Use of screening information**

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

**Auditor discussion, including 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 standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

Auditor comments: Per agency operational policy and procedure, 038.3, 425.4, 730.2, 810.1, 810.2, 830.5, 841.2, "Use of Offender Screening Information. The DOC shall use information from the offender's Classification Assessment to inform housing, bed, work, education, and program assignments with the goal of keeping separate those offenders at high risk of being sexually victimized from those at high risk of being sexually abusive (§115.42[a]). The DOC shall make individualized determinations about how to ensure the safety of each offender (§115.42[b]). Specialized decisions to provide specific individual accommodations to transgender or intersex offenders and offenders diagnosed by Mental Health staff with Gender Dysphoria shall be made by the Gender Dysphoria Committee. 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, the agency shall consider on a case-by-case basis whether a placement would ensure the offender's health and safety, and whether the placement would present management or security problems (§115.42[c])."

Placement and programming assignments for each transgender or intersex offender shall be reassessed at least twice each year to review any threats to safety experienced by the offender (§115.42[d]). The Institutional Program Manager (IPM) or designated staff for facilities without an IPM shall pull the Facility Offender Alert custom report from VACORIS (agency computer-based operating system) in the months of January and July in order to complete a six month reassessment of housing and programs for all transgender and intersex offenders. The staff member must meet with the offender to discuss their program and housing needs and to ensure their current assignments are still appropriate. A transgender or intersex offender's own views with respect to his or her own safety shall be given serious consideration (§115.42[e]). A note shall be placed in VACORIS (agency computer-based operating system) indicating 'six month housing and program assignment reassessment completed' and documenting any necessary action taken regarding changes to housing and programs. The IPM or designated staff shall refer the offender to QMHP for follow-up, as needed. All reassessments shall be completed by the last day of the designated months. Transgender and intersex offenders shall be given the opportunity to shower separately from other offenders (§115.42[f]). The DOC shall not place lesbian, gay, bisexual, transgender, or intersex offenders in dedicated facilities, units, or wings solely on the basis of such identification or status (§115.42[g].)"

The auditor interviewed the Pocahontas State Correctional Center Prison Rape Elimination Act Compliance Manager to confirm compliance with the standard. The auditor completed a required webinar in April 2016 from the Prison Rape Elimination Act Resource PREA Audit Report

Center in reference to Standard 115.42. The auditor confirmed that agency operational policy (038.3) specifically states, “A transgender or intersex inmate’s own views with respect to his or her own safety shall be given serious consideration”, which is in accordance with the standard. The auditor observed and reviewed the agency’s and facilities risk-based housing unit and bed placement decisions and screening form. The agency and facility uses information from the risk screening to inform housing, cell, bed, work, and program assignments with the goal of keeping separate those offenders/inmates at high risk of being sexually victimized from those at high risk of being sexually abusive.

The auditor reviewed the agency and facility policies and procedures (038.3, 425.4, 730.2, 810.1, 810.2, 830.5, 841.2); observed agency and facility practices; reviewed data and documentation provided by the agency and facility staff; and interviewed offenders/inmates and staff during an on-site visit and tour of the facility. The agency and facility meets the standard and complies with the standard for the relevant review period.

Code of Virginia, Policy, Materials, Interviews and Other Evidence Reviewed:

- Code of Virginia §18.2-61; §18.2-64.2; §18.2-67.10; §18.2-67.4; §53.1-10; §53.1-32; §53.1-21; §53.1-23; §53.1-23.2; §53.1-32.1; §53.1-32.2; §53.1-33; §53.1-41; §53.1-42; §53.1-43; §53.1-45.1; §53.1-59.
- Virginia Department of Corrections Operating Procedure 038.3: Prison Rape Elimination Act dated May 1, 2016.
- Virginia Department of Corrections Operating Procedure 841.2: Offender Work Programs dated February 1, 2017.
- Virginia Department of Corrections Operating Procedure 425.4: Management of Bed and Cell Assignments dated February 1, 2106.
- Virginia Department of Corrections Operating Procedure 730.2: Mental Health Services: Screening, Assessment, and Classification dated December 1, 2105.
- Virginia Department of Corrections Operating Procedure 810.1: Offender Reception and Classification dated December 1, 2015.
- Virginia Department of Corrections Operating Procedure 810.2: Transferred Offender Receiving and Orientation dated May 1, 2016.
- Virginia Department of Corrections Operating Procedure 830.5: Transfers, Facility Reassignments dated March 1, 2017.
- Interviews with agency Director, facility Intake Staff, Prison Rape Elimination Act Coordinator, facility mental health, regional Prison Rape Elimination Act Analyst, facility Compliance Manager, Assistant Warden, and facility staff.
- Virginia Department of Corrections submitted Pre-Audit Questionnaire.
- Virginia Department of Corrections Prison Rape Elimination Act QMHP Follow-up Form (14 day follow-up).
- Facility Offender Alert Report on VACORIS (agency computer-based operating system): High Risk Sexual Victim/HRSV and High Risk Sexual Aggressor/HRSA Bed Assignment (agency and facility tracking ability).

### **Standard 115.43 Protective custody**

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

**Auditor discussion, including 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 standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

Auditor comments: Per agency operational policy and procedure, 425.4, 830.5, 810.1, 810.2, “High Risk Sexual Victim (HRSV) or Sexual Abuse Victim: The facility shall make individualized determinations about how to ensure the safety of each offender (§115.42[b]). In deciding whether to assign a transgender or intersex offender to a Protective Custody Unit, the facility shall consider on a case-by-case basis whether this placement would ensure the offender’s health and safety, and whether the placement would present management or security problems (§115.42[c]). A transgender or intersex offender’s own views with respect to their own safety shall be given serious consideration. (§115.42[e]). Offenders should be managed in accordance with Operating Procedure 425.4, Management of Bed and Cell Assignments, and Operating Procedure 861.3, Special Housing, pending review for protective custody assignments. Offenders may be placed in segregation at the discretion of the ICA upon a determination that such placement is appropriate for the security needs of the offender. Offenders identified as HRSV or offenders alleged to have suffered sexual abuse should not normally be placed in segregation without their consent by the ICA unless it has been determined that there is no available alternative means of separation from likely abusers (§115.43[a]). The ICA must clearly document on the Institutional Classification Authority Hearing report the basis for the institution’s concern for the offender’s safety

and the reason why no alternative means of separation can be arranged (§115.43[d]). Involuntary assignment to Segregation shall only be made until an alternative means of separation from likely abusers can be arranged (§115.43[c]). This assignment to segregation shall not ordinarily exceed a period of 30 days (§115.43[c]). Mental Health staff shall advise the ICA on whether the offender can be released to General Population or whether they must be assigned to Segregation and/or transferred to the DOC Protective Custody Unit (§115.43[c]). The Regional PREA Analyst must be notified of this assignment and kept informed of any changes in the offender's status. (§115.43[a])."

The Auditor interviewed the Pocahontas State Correctional Center Prison Rape Elimination Act Compliance Manager to confirm compliance with the standard. The agency operational policy and procedure (425.4, 830.5, 810.1, 810.2) mirrors the standard in that offenders/inmates at high risk for sexual victimization or those who report sexual victimization shall not be placed in involuntary administrative or punitive segregation unless there has been an assessment of all other available alternatives and a determination made that there are no other alternatives available. As reported, zero offenders/inmates have been placed in restrictive housing for protective custody during the previous 3 year period. The agency and facility meets the standard and complies with the standard for the relevant review period.

Code of Virginia, Policy, Materials, Interviews and Other Evidence Reviewed:

- Code of Virginia § 53.1-10; §53.1-32; §53.1-21; §53.1-23; §53.1-23.2; §53.1-32.1; §53.1-32.2; §53.1-33; §53.1-41; §53.1-42; §53.1-43; §53.1-45.1; §53.1-59.
- Virginia Department of Corrections Operating Procedure 425.4: Management of Bed and Cell Assignments dated February 1, 2106.
- Virginia Department of Corrections Operating Procedure 810.1: Offender Reception and Classification dated December 1, 2015.
- Virginia Department of Corrections Operating Procedure 810.2: Transferred Offender Receiving and Orientation dated May 1, 2016.
- Virginia Department of Corrections Operating Procedure 830.5: Transfers, Facility Reassignments dated March 1, 2017.
- Interviews with agency Director, facility Intake Staff, Prison Rape Elimination Act Coordinator, facility mental health, regional Prison Rape Elimination Act Analyst, facility Compliance Manager, Assistant Warden, Security Chief, and facility staff.
- Virginia Department of Corrections submitted Pre-Audit Questionnaire.
- Pocahontas State Correctional Center Prison Rape Elimination Act Compliance Manager Memorandum dated February 1, 2017 confirming that zero offenders were place in restrictive housing for the past 3 year period for protective custody.

### **Standard 115.51 Inmate reporting**

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

**Auditor discussion, including 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 standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

Auditor comments: Per agency operational policy and procedure, 038.1, 038.3, 801.6, 803.3, 866.1, "Detection and Reporting: Offender Responsibilities. Offenders shall have the opportunity to 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 to any employee, and will not be required to report only to the immediate point-of-contact line officer. An offender may report such incidents to any employee, including chaplains, medical, mental health or counseling staff, security staff or administrators, by informing the employee in any manner available, e.g. verbally, through the offender telephone system Sexual Assault Hotline Number #55, or in writing using an Offender Request or Informal Complaint (§115.51[a]). An offender who is sexually assaulted shall immediately notify staff that a sexual assault has occurred. Staff shall accept reports made verbally, in writing, anonymously, and from third parties and shall promptly document any verbal reports as an Internal Incident Report with PREA checked in the description field in accordance with Operating Procedure 038.1, Reporting Serious or Unusual Incidents (§115.51[c]). Offenders who observe, are involved in, or have any knowledge or suspicion of a sexual assault or unauthorized relationship shall immediately notify staff. The agency shall also provide at least one way for offenders to report abuse or harassment to a public or private entity or office that is not part of the agency, and that is able to receive and immediately forward offender reports of sexual abuse and sexual harassment to agency officials, allowing the offender to remain anonymous upon request (§115.51[b]). The agency shall provide a method for staff to privately report sexual abuse and sexual harassment of offenders (§115.51[d])."

The auditor tested the Pocahontas State Correction Center offender/inmate phone system on May 10, 2017, during the on-site visit phase of the audit process. The agency and facility has multiple ways for offender/inmate reporting of sexual abuse and sexual harassment, retaliation by other inmates or staff for reporting sexual abuse and sexual harassment, and staff neglect or violation of responsibilities that may have contributed to such incidents. The auditor test of the offender/inmate phone system confirms the agency and facility access for offender/inmate reports of sexual abuse and sexual harassment to agency and facility officials. The agency has a memorandum of understanding with the Virginia Sexual and Domestic Violence Action Alliance, 5008 Monument Avenue, Suite A, Richmond, Virginia, for support services to victims of sexual abuse. The auditor contacted the local rape crisis center, Bluefield Medical Center, Princeton Hospital, and they confirmed no calls were received from offenders/inmates within the last year. These are considered outside the agency organizations. The auditor also contacted Just Detention International, which is a national advocacy organization, and they stated that they have not fielded any calls or contacts related to the facility. The auditor interviewed offenders/inmates and they were well informed concerning the offender/inmate reporting process for anything related to the Prison Rape Elimination Act. The facility reported having no male inmate grievances. The offenders/inmates can report to any facility staff member, Prison Rape Elimination Act compliance manager assigned to the facility, call the hotline number, or submit a report to the agency.

The agency has an internal reporting process written in the offender orientation manual. The offenders/inmates are told to call on the offender/inmate phone system or other avenues. The auditor reviewed agency operational policies and procedures (policy 038.1, 038.3, 801.6, 803.3, 866.1, and Offender Orientation Manual); observed agency and facility practices; reviewed data and documentation provided by the facility staff; interviewed outside organizations; and interviewed offenders/inmates and staff during an on-site visit and tour of the facility. The agency and facility meet the standard for the relevant review period.

Code of Virginia, Policy, Materials, Interviews and Other Evidence Reviewed:

- Code of Virginia §18.2-67.10; §53.1-10; §53.1-25; §18.2-61; §18.2-64.2; §18.2-67.10; §18.2-67.4; §53.1-1.1; §53.1-25; §8.01-243.2.
- Virginia Department of Corrections Operating Procedure 038.1: Reporting Serious or Unusual Incidents dated March 1, 2017.
- Virginia Department of Corrections Operating Procedure 038.3: Prison Rape Elimination Act dated May 1, 2016.
- Virginia Department of Corrections Operating Procedure 801.6: Offender Services dated November 1, 2015.
- Virginia Department of Corrections Operating Procedure 803.3: Offender Telephone Service dated December 1, 2016.
- Virginia Department of Corrections Operating Procedure 866.1: Offender Grievance Procedure dated July 1, 2016.
- Interviews with agency Director, facility counselor, Prison Rape Elimination Act Coordinator, facility mental health, regional Prison Rape Elimination Act Analyst, facility Compliance Manager, Assistant Warden, Unit Manager, and facility staff.
- Virginia Department of Corrections submitted Pre-Audit Questionnaire.
- Memorandum of Understanding, Contract Number DOC-13-065, renewal date May 1, 2017 to April 30, 2018, between the Virginia Department of Corrections and Virginia Sexual and Domestic Violence Action Alliance for support services to victims of sexual abuse.

### **Standard 115.52 Exhaustion of administrative remedies**

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

**Auditor discussion, including 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 standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

Auditor comments: Per agency operational policy and procedure, 038.3, 861.1, 866.1, "Grievances Regarding Sexual Abuse and Sexual Harassment: The Offender Grievance Procedure is one of 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. See Operating Procedure 038.3, Prison Rape Elimination Act (PREA), for additional reporting information (§115.51[a]). Staff shall accept any report of PREA related issues made through the Offender Grievance Procedure and immediately report any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment to the Facility Unit Head and facility PREA Compliance Manager (§115.51[c]). Each institution shall ensure in its Implementation

Memorandum that: An offender who alleges sexual abuse may submit a grievance without submitting it to a staff member who is the subject of the complaint. Such grievance is not referred to a staff member who is the subject of the complaint (§115.52[c]). There is no time limit on when an offender may submit a grievance regarding an allegation of sexual abuse (§115.52[b]) See Operating Procedure 866.1, Offender Grievance Procedure and Operating Procedure 866.2, Offender Complaints, Community Corrections. Third Party Assistance (§115.52[e]). Third parties, including fellow offenders, staff members, family members, attorneys, and outside advocates, shall be permitted to assist offenders in filing requests for administrative remedies relating to allegations of sexual abuse, and shall also be permitted to file such requests on behalf of offenders."

Per the Pocahontas State Correctional Center Offender Orientation Manual, March 15, 2017, "GRIEVANCE PROCEDURE: The OP 866.1 Offender Grievance Procedure provides an administrative process for fair, prompt decisions and actions in response to offender complaints (grievances). PSCC will make every effort to manage the offender grievance procedure in a way that creates productive communication between staff and offenders in order to resolve problems at the lowest possible level. Offenders at PSCC are encouraged to use the grievance procedure for legitimate complaints. Offenders who use the procedure will in no way be subject to any reprisal or retaliation. Grievance copies are only maintained in the Grievance Coordinator's office and are not placed in the institutional file. Implementation of the Grievance Procedure at PSCC is specified in I/M 866-A Offender Grievance Procedure, and a summary of the Grievance Procedure is provided during offender orientation.

An offender must attempt informal resolution by utilizing the informal procedure prior to filing a regular grievance. This is not an optional step in the grievance procedure. The informal procedure consists of completing an Informal Complaint Form and submitting to appropriate department for a response. Emergency Grievances or Requests for Service Forms do not satisfy the informal procedure. PSCC staff has fifteen (15) calendar days to respond and staff may re-route the complaint to the appropriate department. When submitting a grievance, the informal response shall be attached to the grievance form. An offender is not required to use the informal complaint process, or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse. An offender who alleges sexual abuse by a staff member may submit a grievance without submitting it to the staff member who is the subject of the complaint. If an offender is adjudged to be abusing the grievance process by excessive filings or habitual misuse of the procedure, the Warden may limit that offender's use of the informal, regular and emergency grievance procedures.

In grievances where offenders threaten bodily harm to any person (DOC Offense Code 212), or use vulgar or insolent language toward an employee (DOC Offense Code 222), a charge may be issued in accordance with the provisions in OP 861.1 Offender Discipline. Grievance forms are to be submitted within 30 calendar days from the date of occurrence/incident or discovery of the occurrence/incident, except in incidents beyond the offender's control or where a more restrictive time frame has been established in Operating Procedures to prevent loss of remedy or the issue from becoming moot. The original grievance form is to be submitted to the Grievance Coordinator through the institutional mail and the offender must include his State ID number, housing unit, bed location, and sign and date the form. Grievances from offenders in the Restrictive Housing Unit will be picked up by the Floor Officer, after notification by the grievant, during rounds. The complaint must be written in the space provided on the form and only one issue per grievance will be addressed. Repetitive grievances should not be filed. Grievance forms are located in all General Population housing units and are available during all waking hours. Offenders assigned to the Restricted Housing Unit may request a grievance form from the Floor Officer who will provide the form while making his next round. Assistance will be provided upon request to those offenders who cannot complete grievance forms or to an offender who wishes to file a grievance prior to participation in offender orientation. During normal working hours, the Human Rights Advocate and a Counselor will be available for assistance. Sergeants are available after normal working hours.

Operating Procedure 866.1 Offender Grievance Procedure specifies that the following matters are grievable:

- Procedures of the facility, region, division and department which affect the offender personally.
- Actions of individual employees and/or offenders which affect the offender personally, including any denial of access to the grievance procedure.
- Reprisals against the offender for filing a grievance or grievance appeal.
- Issues concerning the Department of Correction's administration of the Interstate Compact Agreement which affect the offender personally.
- Any other matters relating to conditions of care or supervision within the authority of the Department of Corrections which affect the offender personally.

Operating Procedure 866.1 specifies that the following matters are NOT grievable:

- Disciplinary hearing decisions, penalties and/or procedural errors, which may be appealed in accordance with OP 861.1 Offender Discipline
- State and Federal court decisions, laws, and regulations
- Policies, procedures and decisions of the Parole Board, Board of Corrections, Virginia Department of Transportation, Department of Correctional Education, Virginia Correctional Enterprise, or other agencies
- Other matters beyond the control of the Department of Corrections

There are three (3) levels of review for Regular Grievances, as described below:

Level I: The Warden maintains the primary responsibility for responses to grievances at Level I. Level I responses should be returned to the offender within 30 days of receipt of grievances that are accepted for processing. The response will direct the offender to the next appropriate Level of appeal.

Level II: Regional Director, Health Services Director or Chief of Operations for Offender Management Services. Level II has 20 calendar days from date received to respond, and the response will indicate if the issue may be appealed to Level III.

Level III: Deputy Director or Director of the DOC for: grievances challenging Division Procedures; grievances regarding decisions of the Publication Review Committee; grievances regarding decisions of the Faith Review Committee; and grievances concerning the Interstate Compact Agreement from Virginia. Level III has 20 calendar days from date received to respond.

The offender has five (5) calendar days from date of receipt of response to appeal a grievance to the next level. A regular grievance may be continued up to 30 calendar days beyond the specified time limit at any level of the procedure. An offender may voluntarily withdraw his grievance from any level of the procedure by completing the withdrawal section on the Regular Grievance Form.

**EMERGENCY GRIEVANCES:** Emergency Grievances are to be utilized in the case of a true emergency. Emergencies are defined as: situations or conditions which may subject the offender to immediate risk of serious personal injury or irreparable harm. The offender is to write the complaint in Part A of the Emergency Grievance and submit the form directly to the housing unit Floor Officer for submission to the Unit Manager/Watch Commander for review/response. If the Unit Manager is not available to provide a response, the Emergency Grievance will be routed to the Watch Commander's office for completion. Emergency Grievance responses are due to the offender within eight (8) hours of receipt. There is no appeal process for Emergency Grievances. Emergency Grievance forms are available to all offenders twenty-four hours a day and may be obtained from the Floor Officer or other staff in each housing unit. Offenders in the Restrictive Housing Unit shall receive an Emergency Grievance form upon a request to the Restrictive Housing Unit Floor Officer, who will provide the form during his next cell check.

**COMMON FORMS AVAILABLE:** The following forms are available in each housing unit upon request:

- Regular and Emergency Grievance Forms
- Informal Complaint Form
- Request for Service Form
- Commissary Order Form
- Special Visit Form
- Property Request
- Job Application
- Job Change Form
- Cell Change Form
- Clothing Issue Form
- Inmate Trust System – Withdrawal Request Form
- Inmate Trust System - Withdrawal Request GTL Debit Account
- Indigent Request Form
- Disciplinary Hearing Forms:
  - Witness Request Form
  - Reporting Officer Response Form
  - Documentary Evidence Request Form
  - Appeal Form”

The auditor reviewed the agency and facility policies and procedures (038.3, 861.1, 866.1, and Offender Orientation Manual/Handbook); observed agency and facility practices; reviewed data provided by the agency and facility staff; reviewed the Offender Orientation Manual; and interviewed offenders/inmates and staff during an on-site visit and tour of the facility. The auditor requested and received a copy of the Offender Orientation Manual to confirm compliance with the standard. The auditor received copies and reviewed three offender level 1 regular grievances. The auditor also interviewed one offender/inmate who submitted a grievance. The agency and facility meets the standard for the relevant rating period.

Code of Virginia, Policy, Materials, Interviews and Other Evidence Reviewed:

- Code of Virginia §18.2-61; §18.2-64.2; §18.2-67.10; §18.2-67.4; §53.1-25; §53.1-26; §53.1-32.01, §53.1-39; §53.1-188; §53.1-189; §53.1-202.4; §18.2-371.2; §18.2-390; §18.2-391; §8.01-243.2; §53.1-10.

- Virginia Department of Corrections Operating Procedure 038.3: Prison Rape Elimination Act dated May 1, 2016.
- Virginia Department of Corrections Operating Procedure 861.1: Offender Discipline, Institutions dated January 1, 2016.
- Virginia Department of Corrections Operating Procedure 866.1: Offender Grievance Procedure dated July 1, 2016.
- Interviews with agency Director, facility investigator, Prison Rape Elimination Act Coordinator, facility hearing officer, regional Prison Rape Elimination Act Analyst, facility Compliance Manager, Assistant Warden, offenders, and facility staff.
- Virginia Department of Corrections submitted Pre-Audit Questionnaire.
- Pocahontas State Correctional Center Prison Rape Elimination Act Compliance Manager memorandum confirming no grievances received from third party entities dated February 1, 2017.
- Pocahontas State Correctional Center Prison Rape Elimination Act Compliance Manager memorandum confirming no emergency grievances received dated February 1, 2017.
- Pocahontas State Correctional Center Prison Rape Elimination Act Compliance Manager memorandum confirming no grievances received “in bad faith” dated February 1, 2017.
- Pocahontas State Correctional Center Offender Grievances and Forms.

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

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

**Auditor discussion, including 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 standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

Auditor comments: Per agency operational policy and procedure, 038.3, “Offender access to outside confidential support services:. Offenders may contact their facility PREA Compliance Manager, Unit Manager, or Mental Health staff for contact information for access to outside victim advocates for emotional support services related to sexual abuse. The facility shall enable reasonable communication between offenders and these organizations and agencies, in as confidential a manner as possible (§115.53[a]). The facility shall inform offenders, 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 (§115.53[b]). The DOC maintains a Memorandum of Understanding (MOU) with a community service provider who is able to provide offenders with access to confidential emotional support services related to sexual abuse. A copy of this agreement is available from the PREA Coordinator (§115.53[c]).”

Per the Pocahontas State Correctional Center Offender Orientation Manual/Handbook, “Reports of sexual abuse or sexual harassment may be reported to any staff member, in writing on an Offender Request Form, Informal Complaint, Regular Grievance or Emergency Grievance. You can also report sexual abuse or sexual harassment by dialing #55 (Sexual Abuse Hotline) on the offender telephones. This line is for reporting sexual abuse only and not for any other miscellaneous calls. By reporting such incidents, you will assist staff in the prevention/detection of sexual abuse/sexual harassment. You can choose to report anonymously or have a third party, such as a friend or family member, report on your behalf. There is no time limit for reporting sexual abuse/sexual harassment. All allegations must be investigated. Appropriate measures will be taken to protect you from retaliation for reporting or cooperating with a sexual abuse/sexual harassment investigation. Victims of sexual abuse are offered medical and mental health treatment at no cost, to include a forensic medical exam if necessary. Should you require emotional support following an incident of sexual abuse or sexual harassment, you may dial #55 and select option 2 for emotional support services. Victim advocates are also available for emotional support needs, accompaniment during a forensic exam and investigative interviews.

See ATTACHMENT #3 of this Orientation Manual for the Department of Corrections PREA Brochure entitled ‘Sexual Assault Awareness and Prevention – Detecting, Reporting, Preventing.’ This brochure is provided in the following three formats:

English Version  
 Spanish Version  
 Information for the Hearing Impaired”

The agency has a memorandum of understanding with the Virginia Sexual and Domestic Violence Action Alliance, 5008 Monument Avenue, Suite A, Richmond, Virginia, for support services to victims of sexual abuse which is a third party outside the agency

organization. The agency also maintains informational brochures, posters, and hotline number access for inmates. Information is also available in different languages.

Auditor note: The National Center for Victims of Crime recently initiated and launched the Victim Connect Resource Center which is a resource for victims, to include but not limited to, providing critical, confidential assistance through phone, text, and chat along with interpreter services in over 200 languages. These services can be accessed at 1-855-4VICTIM or [www.chat.victimconnect.org](http://www.chat.victimconnect.org). The anti-sexual assault organization, RAINN, operates a national hotline at 1-800-656-4673 with access to a range of free services.

The auditor reviewed the agency and facility policies and procedures (038.3), observed agency and facility practices, reviewed data and information provided by the agency and facility staff, interviewed outside agencies, and interviewed offenders/inmates and staff during an on-site visit and tour of the facility. Based on the listed and provided information, the agency and facility meets the standard for the relevant review period.

Code of Virginia, Policy, Materials, Interviews and Other Evidence Reviewed:

- Code of Virginia §18.2-67.10; §18.2-61; §18.2-64.2; §18.2-67.10; §18.2-67.4.
- Virginia Department of Corrections Operating Procedure 038.3: Prison Rape Elimination Act dated May 1, 2016.
- Interviews with agency Director, facility counselor, Prison Rape Elimination Act Coordinator, facility mental health, regional Prison Rape Elimination Act Analyst, facility Compliance Manager, Assistant Warden, Unit Managers, and facility staff.
- Virginia Department of Corrections submitted Pre-Audit Questionnaire.
- Memorandum of Understanding, Contract Number DOC-13-065, renewal date May 1, 2017 to April 30, 2018, between the Virginia Department of Corrections and Virginia Sexual and Domestic Violence Action Alliance for support services to victims of sexual abuse.
- Offender Orientation Manual/Handbook, brochures, posters.

**Standard 115.54 Third-party reporting**

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

**Auditor discussion, including 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 standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

Auditor comments: Per agency operational policy and procedure, 038.3, "Third Party Assistance:.. Third parties, including fellow offenders, staff members, family members, attorneys, and outside advocates, shall be permitted to assist offenders in filing requests for administrative remedies relating to allegations of sexual abuse, and shall also be permitted to file such requests on behalf of offenders. If a third party files such a request on behalf of an offender, 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. If the offender declines to have the request processed on his or her behalf, the agency shall document the offender's decision. The Department of Corrections public web site provides contact information on how to report sexual abuse and sexual harassment on behalf of an offender (§115.54)."'

Offenders/Inmates at the Pocahontas State Correctional Center are instructed on third party assistance. The auditor confirmed that the agency and facility has policies and procedures, specifically policy 038.3, that third-party reports will be accepted. The agency offers opportunities for third-party reporting via the "Third Party Reporting Form" on the agency website located at [www.vadoc.virginia.gov](http://www.vadoc.virginia.gov). The reporting form on the website can also be submitted via mail and the website also has the ability to receive email or confidential hotline support at 1-855-602-7001 or assistance at 804-887-7921. The auditor verified through staff and offender interviews that they are aware of and concur with reporting requirements in accordance with the agency regulation and Prison Rape Elimination Act standard.

The mailing address is as follows:

6900 Atmore Drive  
Richmond, Virginia 23261

Auditor note: The National Center for Victims of Crime recently initiated and launched the Victim Connect Resource Center which is a resource for victims, to include but not limited to, providing critical, confidential assistance through phone, text, and chat along with interpreter services in over 200 languages. These services can be accessed at 1-855-4VICTIM or [www.chat.victimconnect.org](http://www.chat.victimconnect.org). The anti-sexual assault organization, RAINN, operates a national hotline at 1-800-656-4673 with access to a range of free services.

The auditor reviewed the agency and facility policies and procedures (038.3); observed agency and facility practices; reviewed data provided by the agency and facility staff; interviewed outside agencies; and interviewed offenders/inmates and staff during an on-site visit and tour of the facility. Based on the listed information, the agency and facility meets the standard and complies with the standard for the relevant review period.

Code of Virginia, Policy, Materials, Interviews and Other Evidence Reviewed:

- Code of Virginia §18.2-67.10; §18.2-61; §18.2-64.2; §18.2-67.10; §18.2-67.4.
- Virginia Department of Corrections Operating Procedure 038.3: Prison Rape Elimination Act dated May 1, 2016.
- Interviews with agency Director, facility counselor, Prison Rape Elimination Act Coordinator, facility mental health, regional Prison Rape Elimination Act Analyst, facility Compliance Manager, Assistant Warden, Unit Managers, and facility staff.
- Virginia Department of Corrections submitted Pre-Audit Questionnaire.
- Virginia Department of Corrections Third Party Reporting Form.
- Virginia Department of Corrections website at [www.vadoc.virginia.gov](http://www.vadoc.virginia.gov) (Search PREA).
- Offender Orientation Manual/Handbook, brochures, posters.

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

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

**Auditor discussion, including 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 standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

Auditor comments: Per agency operational policy and procedure, 038.3, 038.1, 030.4, 720.2, 720.7, 730.2, 801.6, "Staff Responsibilities: Any employee, volunteer, or contractor shall immediately report to his or her 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. If applicable, an incident report shall be submitted in compliance with Operating Procedure 038.1 Reporting Serious or Unusual Incidents (§115.61[a]). Apart from reporting to designated supervisors or officials, staff shall not reveal any information related to a sexual abuse report to anyone other than to the extent necessary, as specified in operating procedures, to make treatment, investigation, and other security and management decisions (§115.61[b]). Employees, volunteers, and contractors shall report to the supervisor, Organizational Unit Head or officer in charge any suspicion or knowledge of other staff, volunteer or contractor fraternization with offenders. If the alleged victim is under the age of 18, aged, incapacitated, or offenders who are receiving services from a DOC Licensed Mental Health Program, the Organizational Unit Head, or Administrative Duty Officer in their absence, is required to immediately report any alleged abuse to the local Department of Social Services (§115.61[d])."

Per agency operational policy and procedures, 030.4, 038.1, "All allegations of sexual abuse and sexual harassment, including third-party and anonymous reports must be immediately reported to the facility designated investigator who will conduct an initial investigation and will immediately notify the PREA Analyst of the allegation (§115.61[e]). Reporting of Sexual Misconduct: 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. If applicable, an Internal Incident Report shall be submitted with PREA checked in the description field (§115.61[a]). 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 (§115.61[b]). Staff shall accept reports made verbally, in writing, anonymously, and from third parties and shall promptly document verbal reports as an Internal Incident Report with PREA checked in the description field (§115.51[c]).”

Per agency operational policy and procedure, 720.2, 720.7, 720.7, “All offenders shall be informed of the medical and mental health practitioner’s duty to report any knowledge, suspicion, or information regarding an incident of sexual abuse and the limitations of confidentiality prior to conducting a Medical or Mental Health Screening, Appraisal, or Examination (§115.61[c]). At the initiation of services, medical and mental health practitioners shall be required to report sexual abuse to the Facility Unit Head or Administrative Duty Officer to assure separation of the victim from their assailant and the practitioner is required to inform offenders of the duty to report and the limitations of confidentiality. 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 (§115.61[b]).”

The Pocahontas State Correctional Center policy requires all staff to report “immediately” and according to agency regulation any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in any facility, whether or not it is part of the agency; retaliation against offenders/inmates or staff who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.

Other than reporting to designated supervisors or officials, staff shall not reveal any information related to a sexual abuse report to anyone other than to the extent necessary, as specified in agency regulation, to make treatment, investigation, and other security and management decisions. Unless otherwise precluded by Federal, State, or local law, medical and mental health practitioners shall be required to report sexual abuse, and inform inmates of the practitioner’s duty to report, and the limits of confidentiality, at the initiation of services. The facility shall report all allegations of sexual abuse and sexual harassment, including third-party and anonymous reports, to the agency’s designated investigators. If the alleged victim is a vulnerable adult under a State or local vulnerable person’s statute, the agency shall report the allegation to the designated State or local services agency under applicable mandatory reporting laws.

The auditor reviewed the agency and facility operating policies and procedures (030.4, 038.1, 038.3, 720.2, 720.7, 730.2, 801.6); observed agency and facility practices; reviewed data provided by the agency and facility staff; and interviewed offenders/inmates and staff during an on-site visit and tour of the facility. Based on the listed information, the agency and facility meets the standard and complies with the standard for the relevant review period.

#### Code of Virginia, Policy, Materials, Interviews and Other Evidence Reviewed:

- Code of Virginia §18.2-67.10; §18.2-61; §18.2-64.2; §18.2-67.10; §18.2-67.4; §2.2-310; §53.1 10; §32.1-59; §53.1-32; §54.1-2900 et seq; §54.1-3000 et seq.; §115.21; §115.41; §115.42; §115.61; §115.62; §115.81; §115.82; §115.83.
- Virginia Department of Corrections Operating Procedure 038.3: Prison Rape Elimination Act dated May 1, 2016.
- Virginia Department of Corrections Operating Procedure 030.4: Special Investigations Unit dated November 1, 2105.
- Virginia Department of Corrections Operating Procedure 038.1: Reporting Serious or Unusual Incidents dated March 1, 2017.
- Virginia Department of Corrections Operating Procedure 720.2: Medical Screenings, Classification, and Levels of Care, dated December 1, 2015.
- Virginia Department of Corrections Operating Procedure 720.7: Emergency Medical Equipment and Care dated October 1, 2016.
- Virginia Department of Corrections Operating Procedure 720.7: Mental Health Services: Screening, Assessments, and class dated October 1, 2016.
- Virginia Department of Corrections Operating Procedure 801.6: Offender Services dated November 1, 2015.
- Interviews with agency Director, facility Health Authority, Prison Rape Elimination Act Coordinator, facility mental health, regional Prison Rape Elimination Act Analyst, facility Compliance Manager, Assistant Warden, and facility staff.
- Virginia Department of Corrections submitted Pre-Audit Questionnaire.
- Pocahontas State Correctional Center Warden’s Memorandum dated February 1, 2017, confirming no reports requiring involuntary placement in special housing for protective custody.

#### Standard 115.62 Agency protection duties

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

**Auditor discussion, including 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 standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

Auditor comments: Per agency operational policy and procedure, 038.3, 425.4, and 730.2, "When a facility learns that an offender is subject to a substantial risk of imminent sexual abuse, it shall take immediate action to protect the offender (§115.62). When staff learns that an offender is subject to a substantial risk of imminent sexual abuse, or is considered to be at risk for additional sexual victimization, the QMHP (Mental Health) will immediately consult with the Facility Unit Head or designee and recommend housing interventions or other immediate action to protect the offender (§115.62)."

The auditor confirmed through agency and facility policies and procedures along with staff and offender/inmate interviews that they will act immediately to any and all offenders/inmates in imminent danger or substantial risk of sexual abuse. When the agency and facility learns that an inmate is subject to a substantial risk of imminent sexual abuse, it shall take immediate action to protect the offender/inmate.

The agency operational policy and procedure (038.3, 425.4, and 730.2) mirrors the standard. The auditor commended the facility for having what they called, "Green PREA Notebooks/Binders", posted throughout the facility as an easy access step-by-step immediate response resource to respond immediately to any form of imminent sexual abuse. Each staff member also had pocket-sized first responder reference cards. The auditor reviewed policies and procedures; observed agency and facility practices; reviewed data provided by the agency and facility staff; and interviewed offenders/inmates and staff during an on-site visit and tour of the facility. Based on the listed information, the agency and facility meets the standard and complies with the standard for the relevant review period.

Code of Virginia, Policy, Materials, Interviews and Other Evidence Reviewed:

- Code of Virginia §53.1-10; §18.2-67.10; §18.2-61; §18.2-64.2; §18.2-67.10; §18.2-67.4; §53.1-32.
- Virginia Department of Corrections Operating Procedure 038.3: Prison Rape Elimination Act dated May 1, 2016.
- Virginia Department of Corrections Operating Procedure 425.4: Management of Bed and Cell Assignments dated February 1, 2016.
- Virginia Department of Corrections Operating Procedure 730.2: Mental Health Services: Screening, Assessments, and Classification dated December 1, 2105.
- Interviews with agency Director, facility Health Authority, Prison Rape Elimination Act Coordinator, facility mental health, regional Prison Rape Elimination Act Analyst, facility Compliance Manager, Assistant Warden, facility Unit Managers and Counselors, and facility staff.
- Virginia Department of Corrections submitted Pre-Audit Questionnaire.
- Pocahontas State Correctional Center Warden's Memorandum dated February 1, 2017, confirming no reports of offenders subject to a substantial risk of imminent sexual abuse.

#### **Standard 115.63 Reporting to other confinement facilities**

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

**Auditor discussion, including 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 standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

Auditor comments: Upon receiving an allegation that a offender/inmate was sexually abused while confined at another facility, the head of the facility that received the allegation shall notify the head of the facility or appropriate office of the agency where the alleged abuse occurred. Such notification shall be provided as soon as possible, but no later than 72 hours after receiving the allegation. The agency and facility document that it has provided such notification. The head or agency office that receives such notification shall ensure that the allegation is investigated in accordance with the Prison Rape Elimination Act standard. The Virginia Department of Corrections policy

mirrors the Prison Rape Elimination Act standard.

Specifically, per agency operational policy and procedure 030.4 and 038.3, “Offender Screening - In accordance with Operating Procedure 730.2, Mental Health Services: Screening, Assessment, and Classification, Operating Procedure 810.1, Offender Reception & Classification, and Operating Procedure 810.2, Transferred Offender Receiving and Orientation, offenders will be screened for potential vulnerability to sexual assault, or tendencies to act out with sexually aggressive behavior at intake, transfer, and as needed while incarcerated. Upon receiving an allegation that an offender was sexually abused while confined at another facility, the head of the facility that received the allegation shall notify the head of the facility or appropriate office of the agency where the alleged abuse occurred (§115.63[a]). Such notification shall be provided as soon as possible, but no later than 72 hours after receiving the allegation (§115.63[b]). The Facility Unit Head shall document that it has provided such notification (§115.63[c]). The facility head or agency office that receives such notification shall ensure that the allegation is investigated in accordance with these standards (§115.63[d]).”

Auditor note: The auditor recently attended the Compliance and Accreditation Managers’ Association Conference which is a national affiliate of the American Correctional Association, from May 20-23, 2017, in Murfreesboro, Tennessee. The Prison Rape Elimination Act Resource Center and affiliated organizations stressed that a recommended best practice is that the head of the facility specifically communicate with any other confinement facility head in reference to a report and not delegate the task to other staff. Otherwise, the notification must, at a minimum, be: (1) Made at the direction of the facility head, and (2) Appear to a third party to have originated with the facility head. For example, the facility head could instruct his or her administrative assistant to send the notification on the facility head’s letterhead and with the facility head’s signature, or to send the notification from the facility head’s email address. By contrast, the facility’s PREA Compliance Manager could not send the notification from his or her email address and merely copy the facility head. The intent of the standard is to ensure that the person receiving the report of sexual abuse at the prior facility understands the seriousness and gravity of the allegation, and that the communication originated at the highest level of the reporting facility. For more information about Standard 115.63(a) and who should receive the report of sexual abuse at the prior facility refer to the PREA Resource Center website at [www.praresourcecenter.org](http://www.praresourcecenter.org).

The auditor reviewed the agency and facility policies and procedures (030.4 and 038.3); observed agency and facility practices; reviewed data provided by the agency and facility staff; and interviewed offenders/inmates and staff during an on-site visit and tour of the facility. Based on the listed information, the agency and facility meets the standard and complies with the standard for the relevant review period.

Code of Virginia, Policy, Materials, Interviews and Other Evidence Reviewed:

- Code of Virginia §2.2-310; §53.1 10; §18.2-67.10; §18.2-61; §18.2-64.2; §18.2-67.10; §18.2-67.4.
- Virginia Department of Corrections Operating Procedure 038.3: Prison Rape Elimination Act dated May 1, 2016.
- Virginia Department of Corrections Operating Procedure 030.4: Special Investigations Unit dated November 1, 2015.
- Interviews with agency Director, facility Health Authority, Prison Rape Elimination Act Coordinator, facility mental health, regional Prison Rape Elimination Act Analyst, facility Compliance Manager, Assistant Warden, facility Unit Managers and Counselors, facility Intake Staff, and facility staff.
- Virginia Department of Corrections submitted Pre-Audit Questionnaire.
- Pocahontas State Correctional Center emails documenting follow-up concerning offender/inmate transfer reports.

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

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

**Auditor discussion, including 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 standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

Auditor comments: Per agency operational policy and procedure, 038.3, 030.4, and 075.1, “Staff first responder duties. Upon learning of an allegation that an offender was sexually abused, the first security staff member to respond to the report shall be required to: (§115.64[a]) Separate the alleged victim and abuser; Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence; If the abuse occurred within a time period that still allows for the collection of physical evidence, 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 first staff responder is not a security staff member, the responder shall be required to request that the alleged victim not take any actions that could destroy physical evidence, and then notify security staff (§115.64[b]).”

The auditor reviewed an agency and facility generated check list for first responder use. The auditor commended the agency and facility for creating a user-friendly and well organized Sexual Assault Response Checklist, Form 038\_F6. It is specific with names and contact telephone numbers for an immediate response.

The auditor reviewed the agency and facility policies and procedures (038.3, 030.4, and 075.1); agency and facility pocket size first responder card; checklist; observed agency and facility practices; reviewed data provided by the agency and facility staff; and interviewed offenders/inmates and staff during an on-site visit and tour of the facility. Based on the listed information, the agency and facility meets the standard and complies with the standard for the relevant review period.

Code of Virginia, Policy, Materials, Interviews and Other Evidence Reviewed:

- Code of Virginia §53.1-10; §44-146.13, et seq.; §2.2-310; §53.1 10; §18.2-67.10; §18.2-61; §18.2-64.2; §18.2-67.10; §18.2-67.4.
- Virginia Department of Corrections Operating Procedure 038.3: Prison Rape Elimination Act dated May 1, 2016.
- Virginia Department of Corrections Operating Procedure 030.4: Special Investigations Unit dated November 1, 2015.
- Virginia Department of Corrections Operating Procedure 075.1: Emergency Operations Plan dated January 1, 2015.
- Interviews with agency Director, facility Health Authority, Prison Rape Elimination Act Coordinator, facility mental health, regional Prison Rape Elimination Act Analyst, facility Compliance Manager, Assistant Warden, facility Unit Managers and Counselors, facility Intake Staff, Security/Non-Security staff first responders, and facility staff.
- Virginia Department of Corrections submitted Pre-Audit Questionnaire.
- Pocahontas State Correctional Center Warden’s memorandum dated February 1, 2017 confirming no sexual assault responses required during this rating period.

### **Standard 115.65 Coordinated response**

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

**Auditor discussion, including 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 standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

Auditor comments: Per agency operational policy and procedure, 038.3 and 075.1, the Pocahontas State Correctoinal Center maintains a coordinated response called the Prison Rape Elimination Act Management Plan: “This PREA Management Plan was established for Pocahontas State Correctional Center in accordance with OP 038.3 Prison Rape Elimination Act. Practices and procedures shall comply with applicable State and Federal laws and regulations, Board of Corrections policies and regulations, ACA Standards, PREA Standards, and DOC Directives and Operating Procedures.

This management plan was written to establish specific guidelines and directions in the event of a PREA incident and to provide a safe environment where offenders are free from sexual assault and sexual misconduct. PSCC makes every effort to detect, prevent, reduce, and punish sexual abuse, assault, harassment, and misconduct.

### **DEFINITIONS:**

Prison Rape Elimination Act of 2003, 42 U.S.C. §15609 defines rape as ‘the carnal knowledge, oral sodomy, sexual assault with an object, or sexual fondling of a person, forcibly or against that person’s will; or not forcibly or against the person’s will, where the victim is incapable of giving consent because of his or her youth, or his or her temporary or permanent mental or physical incapacity; or … the carnal knowledge, oral sodomy, sexual assault with an object, or sexual fondling of a person achieved through the exploitation of the fear or threat of physical violence or bodily injury.’

The Code of Virginia §18.2-61 defines rape as any person who has ‘sexual intercourse with a complaining witness, whether or not his or her spouse, or causes a complaining witness, whether or not his or her spouse, to engage in sexual intercourse with any other person and such act is accomplished (i) against the complaining witness’s will, by force, threat or intimidation of or against the complaining witness or another person; or (ii) through the use of the complaining witness’s mental incapacity or physical helplessness; or (iii) with a child under age 13 as the victim, he or she shall be guilty of rape.’

Pocahontas State Correctional Center and the Virginia Department of Corrections have a ZERO-tolerance policy for fraternization or sexual misconduct with offenders by staff, contractors, or volunteers, or between offenders, and will actively work to prevent, detect, report, and respond to any violation (§115.11[a])

#### TRAINING OF VOLUNTEERS, CONTRACTORS, AND VENDORS:

- All contractors, volunteers, and vendors who provide services for PSAC and have offender contact, either direct or indirect (Levels I, II, and III), will be properly trained by a staff member familiar with the PREA policies and standards.
- Contractors/vendors/vendors who may have a maximum to medium amount of contact (Levels, II, III) with an offender; such as clergy, recreational assistant, technicians, etc., will be required to have an overview of PREA, the brochure, ‘A Guide to Maintaining Appropriate Boundaries With Offenders’ and provided a copy of Operating Procedure 130.1 Fraternization Policy, along with the additional rules, documents, and Operating Procedures as designated in Operating Procedure 027.1 Volunteers. The volunteer/contractor must then sign an Acknowledgement Form confirming that he/she understands and accepts the information provided.
- Contractors/Volunteer/Vendors who may have a minimal level of contact (Level I) with offenders, such as repairman, computer technicians, vendors, etc. will be presented with the most recently updated PREA brochure and provided a copy of other appropriate documents or Operating Procedures as designated in Operating Procedure 027.1 Volunteer Program. The Contractor/Vendor must then sign the Acknowledgement Form stating that he/she understands and accepts the information provided.
- PSAC’s Volunteer Coordinator will keep a file of all signed Contractor/Volunteer/Vendor training acknowledgement Forms and the date the training was rendered.

#### OFFENDER TRAINING:

- When an offender enters a DOC facility from a jail, the offender shall receive information explaining the DOC’s zero-tolerance policy for sexual abuse and sexual harassment and instruction on how to report incidents or suspicions of sexual abuse or sexual harassment (§115.33[a]). This information shall be communicated verbally and in writing, in language clearly understood by the offender.
- Immediately upon intake to DOC, the offender shall receive an initial PREA training, utilizing the Preventing Sexual Abuse & Sexual Assault - Trainer Outline – Intake (see Attachment 2a). The offender will watch Section 1 of the PREA: What You Need to Know video, and a copy of the Sexual Assault Awareness and Prevention brochure (see Attachment 1 for English version, Attachment 1S for Spanish version, or Attachment 1H for hearing impaired), which includes the Sexual Assault Hotline number.
- Within 10 days of arrival, the offender shall receive a comprehensive PREA training, utilizing the Preventing Sexual Abuse & Sexual Assault - Trainer Outline – Comprehensive (see Attachment 2b) including use of the videos PREA: What You Need to Know and Breaking the Silence of Offender Sexual Abuse (§115.33[b]).
- The offender shall document receiving the Sexual Assault Awareness and Prevention brochure and both of the Preventing Sexual Abuse and Sexual Assault Trainings (Intake and Comprehensive) by signing the Acknowledgement of Preventing Sexual Abuse and Sexual Assault Training 038\_F4 (Spanish 038\_F4S). The signed Acknowledgement Form will be uploaded as an external document in VACORIS, identified as a Special Entry Note (§115.33[e]).
- It is mandatory that offenders attend both trainings. Offenders refusing to attend shall be charged with Offense Code 200, per Operating Procedure 861.1, Offender Discipline, Institutions.
- The offender shall document receiving the Sexual Assault Awareness and Prevention brochure and the Preventing Sexual Abuse and Sexual Assault Training by signing the Acknowledgement of Preventing Sexual Abuse and Sexual Assault Training 038\_F4 (or Spanish 038\_F4S). The signed Acknowledgement will be uploaded as an external document in VACORIS, identified as a Special Entry Note (§115.33[d]).

- It will be the responsibility of the Institutional Program Manager, Building Unit Managers, and Institutional Counselors to ensure that each offender receives this training within the allotted time frame.
- In addition to providing such education, each facility shall ensure that key information is continuously and readily available or visible to offenders through posters, offender handbooks, or other written formats (§115.33[f]).

#### DETECTION AND REPORTING:

Offenders shall have the opportunity to 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 to any employee, and will not be required to report only to the immediate point-of-contact line officer. An offender may report such incidents to any employee, including chaplains, medical, mental health or counseling staff, security staff or administrators, by informing the employee in any manner available, e.g. verbally, through the offender telephone system Sexual Assault Hotline Number #55, or in writing, using an Offender Request For Services Form (see Operating Procedure 801.6, Offender Services) or Informal Complaint (see Operating Procedure 866.1, Offender Grievance Procedure) (§115.51[a]).

- There is no time limit regarding when an offender may submit a grievance regarding an allegation of sexual abuse (§115.52[b]). See Operating Procedure 866.1 Offender Grievance Procedure.
- Third parties, including fellow offenders, staff members, family members, attorneys, and outside advocates, shall be permitted to assist offenders in filing requests for administrative remedies relating to allegations of sexual abuse, and shall also be permitted to file such requests on behalf of offenders. However, if PSCC receives an allegation of a PREA claim made by a third party regarding an offender, PSCC's Institutional Investigator or Intelligence Officer will interview the offender to verify that the offender wishes to make a PREA claim.
- Any employee, volunteer, or contractor shall immediately report to his or her 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. If applicable, an Incident Report or Internal Incident Report shall be submitted in compliance with Operating Procedure 038.1 Incident Reporting (§115.61[a]).
- For at least 90 days following a report of sexual abuse, PSCC's Chief of Housing and Programs (CHaP) shall monitor the conduct and treatment of offenders or staff who reported the sexual abuse 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 shall act promptly to remedy any such retaliation. The Chief of Housing and Programs shall keep a log showing the dates and type of monitoring for each offender.
  1. Items to be monitored include any offender disciplinary reports, housing, or program changes, or negative performance reviews or reassignments of staff.
  2. Such monitoring shall continue beyond 90 days if the initial monitoring indicates a continuing need (§115.67[c]).
  3. In the case of offenders, such monitoring shall also include periodic status checks (face-to-face meetings) (§115.67[d]).
  4. The obligation to monitor shall terminate if the Investigator determines the allegation is 'Unfounded' (§115.67[f]).
- Apart from reporting to designated supervisors or officials, staff shall not reveal any information related to a sexual abuse report to anyone other than to the extent necessary, as specified in operating procedures, to make treatment, investigation, and other security and management decisions (§115.61[b]).
- Employees, volunteers, and contractors shall report to the Supervisor, Warden, or Officer-in-Charge any suspicion or knowledge of other staff, volunteer or contractor fraternization with offenders. [See Operating Procedure 135.2 Rules of Conduct Governing Employees Relationships with Offenders.]

#### First Responder Responsibility:

- Upon learning of an allegation that an offender was sexually abused, the first security staff member to respond to the report shall be required to: (§115.64[a])

1. Separate the alleged victim and abuser.
2. Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence. Contact the Shift Commander immediately.
3. If the abuse occurred within a time period that still allows for the collection of physical evidence, 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.
4. If the abuse occurred within a time period that still allows for the collection of physical evidence, 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.
5. Contact the Institutional Investigator, the Administrative Duty Officer, the Facility Unit Head, the Institutional PREA Compliance Manager, and the Health Authority.
6. Follow all protocol as established on the Sexual Assault Response Checklist 038\_F6). Unit Managers and Shift Commanders will ensure this form is made readily available to all Security staff (PSCC's Sexual Assault Response Checklist can be found in PSCC's Virtual Library as an Attachment to OP 038.3 PREA.).
7. Escort and secure the alleged victim to the Medical Department and only allow necessary contact -- Security Supervisors and Medical staff.
8. Await further instructions from the Administrative Duty Officer, Health Authority or Warden.

**Medical Department Responsibility:**

- Upon learning that an offender reports physical sexual assault or abuse, the Supervisor, Officer-in-Charge, or Warden shall ensure the victim is escorted to the Medical Department as soon as possible to provide appropriate assessment and treatment per Nursing Evaluation Tools. Medical staff shall:
  1. Try to keep the alleged victim calm.
  2. Administer first aid if necessary.
  3. Encourage alleged victim not to take any actions that would destroy physical evidence.
  4. If there is indication of sexual assault, contact Bluefield Regional Medical Center and ensure the offender is transported to the hospital to be seen by a Sexual Assault Nurse Examiner (SANE) to conduct a forensic medical examination of the victim (§115.21).
  5. Test for sexually transmitted diseases of victim and abuser.
  6. Follow medical protocol per Medical and Nursing Guidelines and Operating Procedure 720.7, Emergency Medical Equipment and Care.
  7. Offer victim advocacy services after consultation with the Western Region's PREA Analyst or PREA Supervisor (§115.21, §115.53).
  8. Victims of sexual abuse shall receive timely, unimpeded access to emergency medical treatment and crisis intervention service, the nature and scope of which are determined by medical practitioners according to their professional judgment (§115.82).
  9. Provide ongoing medical health care for sexual abuse victims and abusers (§115.83).

**Mental Health Department Responsibility:**

1. All allegations or occurrences of sexual assault of an offender will be reported and investigated, including notification of the allegation to a Qualified Mental Health Professional (QMHP). A QMHP may be made aware of an allegation or occurrence of a sexual assault of an offender by the Medical Department, Institutional Investigator, PREA Compliance Manager, directly

- from the offender, offender family members, etc.
2. Upon receipt of any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in a facility, the QMHP will immediately notify the Warden of the allegation (§115.11).
  3. If the allegation was of a recent sexual assault (i.e., having occurred within the prior 72 hours to 90 hours), the QMHP will immediately notify the Medical Department.
  4. The QMHP will initiate contact with the victim as soon as possible but no later than two working days of receiving the allegation (unless the offender is unavailable). The QMHP should offer services and, based on the offender's mental and physical status, set an initial time as soon as possible to meet with the offender. In a confidential setting, the QMHP will conduct a Sexual Assault Assessment and recommend subsequent service.
  5. Victims of sexual abuse shall receive timely, unimpeded access to emergency medical treatment and crisis intervention service, the nature and scope of which are determined by mental health practitioners according to their professional judgment (§115.82).
  6. Provide ongoing mental health care for sexual abuse victims and abusers (§115.83).
  7. If the offender victim refuses recommended follow-up services, the QMHP will check back with him within a week to monitor their status.
  8. Mental health services are not automatically offered to the alleged perpetrator of the sexual assault but the services will be provided upon his request by a QMHP other than the QMHP who assessed and/or provided services of the victim.

#### Supervisor Responsibility after Receiving Report of Physical Sexual Assault or Abuse:

- When an offender reports physical sexual assault or abuse, the Supervisor, Officer-in-Charge, or Warden shall:
1. The Warden or Administrative Duty Officer shall immediately initiate necessary action, or verify that action has been taken, to protect all physical evidence and the safety and welfare of the offender. The Warden or Administrative Duty Officer may make a temporary administrative reassignment of the victim and/or perpetrator to protect the offender or offenders involved. An investigation shall be conducted and documented by the Institutional Investigator or Agent of the Special Investigation Unit (SIU).
  2. The Supervisor or their designee will immediately question the victim to determine the suspect or suspects; where and when the sexual assault occurred; and if facts warrant further investigation. While all available information must be gathered and confirmed, medical assessment and physical evidence collection must not be delayed pending any investigation of the incident.
  3. The Supervisor or their designee shall also:
    - a. Immediately contact the Special Investigation Unit. (see Operating Procedure 030.4, Special Investigations Unit). An investigator will ensure protocol is followed to investigate the sexual abuse, misconduct or assault.
    - b. Ensure that the victim is immediately escorted to the facility's medical unit area for examination, treatment, and evaluation per Nursing Evaluation Tools and Operating Procedure 720.7, Emergency Medical Equipment and Care.
    - c. Ensure that photographs are taken to document any physical evidence such as torn clothing, bruises, abrasions, etc.

If there is indication of sexual assault, ensure the victim is transported to the local hospital for further treatment, examination, documentation, collection of forensic evidence (PERK kit), and testing for sexually transmitted diseases. Administrative staff must be careful not to impede an offender's access to health care when needed.

    - e. With the victim's consent, the examination includes the collection of evidence from the victim, using a kit approved by the appropriate authority (PERK kit recommended). This will be done at the designated local hospital. Although it is recommended that a PERK kit be collected within 72 hours, it should be used beyond that time whenever there is possibility of evidence remaining.
    - f. Ensure referral for counseling and mental health service needs if warranted.

- g. Ensure that upon return from the hospital emergency room, the victim is interviewed for protective custody needs.
- h. Ensure follow up medical treatment or mental health service needs are arranged.
- i. Complete an Incident Report marked PREA and Confidential for a recent sexual assault (those occurring within the previous 72-90 hours).
- j. Notify the Operations and Logistics Unit only if the incident is a recent sexual assault (occurring within the previous 72-90 hours, if there is a possibility of collecting evidence, as determined by a forensic nurse) Notification to OLU shall only be the statement, 'Alleged recent sexual assault at Pocahontas State Correctional Center.' If an Incident Report has been completed, the OLU should be provided with the IR Number from VACORIS. No additional information shall be reported to OLU.
- k. Notify Western Regional PREA Analyst or PREA Supervisor.

**Investigation:**

- An administrative or criminal investigation conducted in accordance with PREA standards shall be completed for all allegations of sexual abuse and sexual harassment (§115.22[a], §115.71[k]).
- Initial investigation may be conducted by the Institutional Investigator.
- The Special Investigations Unit (SIU) shall conduct investigations into criminal behavior, procedural or administrative violations or employee misconduct affecting the operations of the DOC. The Chief of the Special Investigations Unit or a designee shall review the nature of the allegations received to determine if an investigation is warranted.

This PREA Management Plan will be reviewed and revised as needed in accordance with Operating Procedure 038.3 Prison Rape Elimination Act (PREA)."

The auditor reviewed the agency and facility policies and procedures (038.3 and 075.1); observed agency and facility practices; reviewed data provided by the agency and facility staff; and interviewed offenders/inmates and staff during an on-site visit and tour of the facility. The auditor was impressed with the facility coordinated response protocol and determined that the facility exceeds the standard. Specific justification, the facility has a detailed policy and procedure in reference to a coordinated response. The policy is user friendly and easy to follow. It is an example of what is considered best practice in corrections and in accordance with the Prison Rape Elimination Act.

**Code of Virginia, Policy, Materials, Interviews and Other Evidence Reviewed:**

- Code of Virginia §53.1-10; §44-146.13, et seq.; §2.2-310; §53.1 10; §18.2-67.10; §18.2-61; §18.2-64.2; §18.2-67.10; §18.2-67.4.
- Virginia Department of Corrections Operating Procedure 038.3: Prison Rape Elimination Act dated May 1, 2016.
- Virginia Department of Corrections Operating Procedure 075.1: Emergency Operations Plan dated January 1, 2015.
- Interviews with agency Director, facility Health Authority, Prison Rape Elimination Act Coordinator, facility mental health, regional Prison Rape Elimination Act Analyst, facility Compliance Manager, Assistant Warden, and facility staff.
- Virginia Department of Corrections submitted Pre-Audit Questionnaire.
- Pocahontas State Correctional Center Prison Rape Elimination Act Management Plan.

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

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

**Auditor discussion, including 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 standard. These**

**recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

Auditor comments: Per Code of Virginia §401.1-57.2 and agency memorandum, dated April 22, 2013, "In accordance with the Code of Virginia, collective bargaining is prohibited. No state, county, municipal, or like governmental officer, agent or governing body is vested with or possesses any authority to recognize any labor union or other employee association as a bargaining agency of any public officers or employees, or to collectively bargain or enter into any collective bargaining contract with any such union or association or its agents with respect to any matter relating to them or their employment or service."

Per Prison Rape Elimination Act Standard 115.66(b): "Nothing in this standard shall restrict the entering into or renewal of agreements that govern: (1) The conduct of the disciplinary process, as long as such agreements are not inconsistent with the provisions of 115.72 and 115.76; or (2) Whether a no-contact assignment that is imposed pending the outcome of an investigation shall be expunged from or retained in the staff member's personnel file following a determination that the allegation of sexual abuse is not substantiated."

The auditor received a memorandum from the agency, dated April 22, 2013, confirming that collective bargaining is prohibited. The auditor interviewed the agency and facility staff to confirm compliance with the Standard. Neither the agency nor any other government entity responsible for collective bargaining on the agency's behalf entered into or renewed 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.

The agency and facility has no collective bargaining as verified with the agency and facility during the audit. The staff is fully aware that a violation of policy may more than likely result in termination. The auditor reviewed the agency and facility policies and procedures; observed agency and facility practices; reviewed data provided by the agency and facility staff; and interviewed offenders/inmates and staff during an on-site visit and tour of the facility. Based on the listed information, the agency and facility meet the standard and complies with the standard for the relevant review period.

Code of Virginia, Policy, Materials, Interviews and Other Evidence Reviewed:

- Code of Virginia §40.1-57.2.
- Virginia Department of Corrections Operating Procedure 038.3: Prison Rape Elimination Act dated May 1, 2016.
- Interviews with agency Director, facility Human Resources Director, Prison Rape Elimination Act Coordinator, regional Prison Rape Elimination Act Analyst, facility Compliance Manager, Assistant Warden, and facility staff.
- Virginia Department of Corrections submitted Pre-Audit Questionnaire.
- Agency Memorandum dated April 22, 2013 confirming no collective bargaining.

**Standard 115.67 Agency protection against retaliation**

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

**Auditor discussion, including 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 standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

Auditor comments: The agency and facility protects all offenders/inmates and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other offenders/inmates or staff. The agency and facility shall employ multiple protection measures, such as housing unit or facility transfers for offender/inmate victims or abusers, removal of alleged staff or offender/inmate abusers from contact with victims, and emotional support services for offenders/inmates or staff that fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations. The agency policy mirrors the written language of the Prison Rape Elimination Act standard.

For at least 90 days following a report of sexual abuse, the agency and facility monitors the conduct and treatment of offenders/inmates or staff who reported the sexual abuse and of offenders/inmates who were reported to have suffered sexual abuse to see if there are changes

that may suggest possible retaliation by offenders/inmates or staff, and shall act promptly to remedy any such retaliation. The Prison Rape Elimination Act compliance manager monitors offender/inmate disciplinary reports, housing, or program changes, or negative performance reviews or reassignments of staff. Monitoring continues beyond 90 days, consisting of 30 day continuations, if the initial monitoring indicates a continuing need. Monitoring also includes periodic status checks. Any other individuals who cooperate with an investigation expresses a fear of retaliation, the agency and facility takes appropriate measures to protect that individual against retaliation.

Specifically, per agency operational policy and procedure, 038.3, 135.2, 145.5, "Protection against Retaliation: All staff and offenders who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations shall be protected from retaliation by other offenders or staff (§115.67[a]). Allegations of retaliation shall be reported through the same methods as available for reporting sexual abuse or sexual harassment. Such allegations shall be investigated as for an allegation of sexual abuse. The DOC shall employ multiple protection measures, such as 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 or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations (§115.67[b]). For at least 90 days following a report of sexual abuse, the DOC shall monitor the conduct and treatment of offenders or staff who reported the sexual abuse 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 shall act promptly to remedy any such retaliation. Items to be monitored include any offender disciplinary reports, housing, or program changes, or negative performance reviews or reassignments of staff. The DOC shall continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need (§115.67[c]). In the case of offenders, such monitoring shall also include periodic status checks (§115.67[d]). If any other individual who cooperates with an investigation expresses a fear of retaliation, the DOC shall take appropriate measures to protect that individual against retaliation (§115.67[e]). The DOC's obligation to monitor shall terminate if it determines that the allegation is unfounded (§115.67[f]).

The Prison Rape Elimination Act coordinator and compliance manager confirmed no incidents of retaliation during the past 12 month period from the date of the audit and provided the auditor with documentation of a logs of retaliation checks by staff. The auditor reviewed the agency and facility policies and procedures (038.3, 135.2, 145.5); observed agency and facility practices; reviewed data provided by the agency and facility staff; interviewed outside agencies; and interviewed offenders/inmates and staff during an on-site visit and tour of the facility. Agencies must establish a policy for the protection of offenders/inmates and staff who report sexual abuse or sexual harassment, or cooperate with investigations of sexual abuse or sexual harassment. The policy shall designate staff members or departments within the agency that are responsible with monitoring any retaliation. Agencies must utilize multiple strategies to inhibit and prevent retaliation. The agency and facility meet the standard for the relevant review period.

#### Code of Virginia, Policy, Materials, Interviews and Other Evidence Reviewed:

- Code of Virginia §53.1-10; §2.2-2900 et seq.; §18.2-61; §18.2-64.2; §18.2-67.10; §18.2-67.4.
- Virginia Department of Corrections Operating Procedure 038.3: Prison Rape Elimination Act dated May 1, 2016.
- Virginia Department of Corrections Operating Procedure 135.2: Rules of Conduct Governing Employees Relationships with Offenders dated November 1, 2016.
- Virginia Department of Corrections Operating Procedure 145.5 dated January 1, 2017.
- Interviews with agency Director, facility Health Authority, Prison Rape Elimination Act Coordinator, facility mental health, regional Prison Rape Elimination Act Analyst, facility Compliance Manager, Assistant Warden, and facility staff.
- Virginia Department of Corrections submitted Pre-Audit Questionnaire.
- Pocahontas State Correctional Center Sexual Assault Assessment Form 730\_F25\_7-13; Investigation Report; and Log of Retaliation Checks for PREA Claims.

#### **Standard 115.68 Post-allegation protective custody**

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

**Auditor discussion, including 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 standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

Auditor comments: Per agency operational policy and procedure, 425.4 and 830.5, "Other Special Bed Assignments: Mental Health Hold and Medical Hold are special types of Segregation assigned by the ICA. When Mental Health or Medical staff determine that an offender should be placed in special housing to protect the offender or the general population they may request to the Shift Commander that the offender be placed on General Detention. Offenders identified as HRSV or offenders alleged to have suffered sexual abuse shall not be placed in Special Housing 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 that there is no available alternative means of separation from likely abusers (§115.68). The Regional PREA Analyst must be notified. If the institution cannot conduct an assessment immediately, the Shift Commander may place the offender in special housing on General Detention for no more than 24-hours while completing the assessment (§115.68). 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 (§115.68). The Mental Health or Medical staff causing the offender to be placed in General Detention should advise the ICA whether the offender should be assigned to Segregation or released to general population on review of the General Detention status. For an offender identified as HRSV or an alleged victim of sexual abuse who has been assigned to Special Housing without their consent, Mental Health staff shall advise the ICA on whether the offender can be released to general population or whether they must be assigned to Segregation and/ or transferred to the DOC Protective Custody Unit (see Operating Procedure 830.5, Transfers, Facility Reassignments) (§115.68).

Involuntary assignment to Segregation shall only be made until an alternative means of separation from likely abusers can be arranged (§115.68). The ICA must clearly document the basis for the institution's concern for the offender's safety and the reason why no alternative means can be arranged (§115.68). This assignment shall not ordinarily exceed a period of 30 days (§115.68). Offenders shall have access to programs, privileges, education, and work opportunities to the extent possible while ensuring their safety. If access is more restrictive than for others in their housing status, staff shall document the opportunities that have been limited, the duration of the limitation and the reasons for such limitations on the Special Housing: Denial of Activity or Service 425\_F3 (§115.68). If an offender is assigned to Segregation with Mental Health or Medical Hold, Mental Health or Medical staff must advise the ICA when the offender has recovered adequately to be returned to general population. The ICA should then hold an administrative review for release of the offender to general population.

Conditions for Mental Health Hold and Medical Hold: Unless offender behaviors or medical/mental health needs warrant the removal of specific property items or denial of specific activities, conditions for Mental Health Hold and Medical Hold shall conform to the living conditions for Special Housing listed above. If any normally allowed specific property item or activity is denied, it must be documented using Special Housing: Denial of Activity or Service 425\_F3. B. Medical Observation Units, Infirmarys, or Mental Health Units - The decision to assign offenders to such units is a medical decision to be made by the treating physician or QMHP according to appropriate Health Services procedures and is not governed by this operating procedure. Protective Custody Units: Assignment to and removal from Protective Custody Units shall be in accordance with Operating Procedure 830.1, Facility Classification Management, and Operating Procedure 830.5, Transfers, Facility Reassignments. Protective Custody Units should be operated as a general population except that offenders assigned to the unit will not have unregulated contact with other offenders in the institution. See Operating Procedure 830.5, Transfers, Facility Reassignments."

The auditor reviewed the agency and facility policies and procedures (425.4 and 830.5); observed agency and facility practices; reviewed data provided by the agency and facility staff; interviewed outside agencies; and interviewed offenders/inmates and staff during an on-site visit and tour of the facility. Based on the listed information, the agency and facility meets the standard and complies with the standard for the relevant review period.

#### Code of Virginia, Policy, Materials, Interviews and Other Evidence Reviewed:

- Code of Virginia §53.1-10 and §53.1-21.
- Virginia Department of Corrections Operating Procedure 425.4: Management of Bed and Cell Assignments dated February 1, 2016.
- Virginia Department of Corrections Operating Procedure 830.5: Transfers, Facility Reassignments dated March 1, 2017.
- Interviews with agency Director, facility Health Authority, Prison Rape Elimination Act Coordinator, facility mental health, regional Prison Rape Elimination Act Analyst, facility Compliance Manager, Assistant Warden, and facility staff.
- Virginia Department of Corrections submitted Pre-Audit Questionnaire.
- Pocahontas State Correctional Center Warden's memorandum dated February 1, 2017 confirming that no offenders were housed in special housing to protect the offender who alleged sexual abuse.

#### Standard 115.71 Criminal and administrative agency investigations

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the

relevant review period)

- Does Not Meet Standard (requires corrective action)

**Auditor discussion, including 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 standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

Auditor comments: Per the standard, when an agency conducts its own investigations into allegations of sexual abuse and sexual harassment, it shall do so promptly, thoroughly, and objectively for all allegations, including third-party and anonymous reports. Where sexual abuse is alleged, the agency shall use investigators who have received special training in sexual abuse investigations. Investigators shall gather and preserve direct and circumstantial evidence, including any available physical and deoxyribonucleic acid (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. When the quality of evidence appears to support 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. 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 inmate or staff. No agency shall require a offender/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.

Specifically, agency operational policy and procedure, 030.4 and 038.3, "Prison Rape Elimination Act (PREA) Investigations: The Facility Unit Head shall ensure that an administrative and/or criminal investigation is completed for all allegations of sexual abuse and sexual harassment. When the Facility Unit Head receives notification from another facility that an offender was sexually abused while confined at that facility, they shall ensure that the allegation is investigated in accordance with the PREA Standards. All allegations of sexual abuse and sexual harassment, including third-party and anonymous reports must be immediately reported to the facility designated investigator who will conduct an initial investigation and will immediately notify the PREA Analyst of the allegation. 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. SIU investigators will receive special training in sexual abuse investigations before conducting PREA investigations (§115.71[b]). In addition to the general PREA training provided to all employees, investigators shall receive specialized training in conducting sexual abuse investigations in confinement settings. Specialized training shall include: Techniques for interviewing sexual abuse victims; Proper use of Miranda and Garrity Warnings; Sexual abuse evidence collection in confinement settings; and Criteria and evidence required to substantiate a case for administrative action or prosecution referral. The PREA Compliance Manager shall maintain documentation that the required specialized training in conducting sexual abuse investigations has been completed by the investigators.

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 (§115.71[a]). Evidence Protocol and Forensic Medical Examinations. SIU has an established uniform evidence protocol which maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions. The established protocol is developmentally appropriate for youth and is based on or similar to other comprehensive and authoritative protocols developed after 2011. If requested by the victim, the victim advocate, qualified agency staff member, or qualified community-based organization staff member shall accompany and support the victim through the forensic medical examination process and investigatory interview. With the victim's consent, forensic evidence will be collected by specially trained professional medical practitioners using a kit approved by the appropriate authority (PERK kit recommended). Although it is recommended that a PERK kit is collected within 72 hours it should be used beyond that time whenever there is a possibility of evidence remaining.

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 (§115.71[c]). When the quality of evidence appears to support 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 (§115.71[d]). 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 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 (§115.71[e]).

Administrative investigations (§115.71[f]): Shall include an effort to determine whether staff actions or failures to act contributed to the abuse; and Shall be documented in written reports that include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings. Criminal investigations shall be documented in a written report that contains a thorough description of physical, testimonial, and documentary evidence and attaches copies of all documentary evidence where feasible

(§115.71[g]). Substantiated allegations of conduct that appears to be criminal shall be referred for prosecution (§115.71[h]). 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 (§115.71[j]). 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.”

The auditor received copies of internal incident reports (Form 038.1 A-4), PREA Investigative Reports (Form 038\_F9\_12-16), and confirmation of investigator training conducted by the Moss Group, Inc. in collaboration with the National Prison Rape Elimination Act Resource Center. The auditor reviewed the agency and facility policies and procedures (030.4 and 038.3); observed agency and facility practices; reviewed data provided by the agency and facility staff; interviewed outside agencies; and interviewed offenders/inmates and staff during an on-site visit and tour of the facility. Based on the listed information, the agency and facility meets the standard and complies with the standard for the relevant review period.

Code of Virginia, Policy, Materials, Interviews and Other Evidence Reviewed:

- Code of Virginia §9.1-102; §19.2-81.2; §53.1-10; §53.1-29; §9.1-102; §19.2-81.2; §53.1-10; §53.1-29; §18.2-61; §18.2-64.2; §18.2-67.10; §18.2-67.4.
- Virginia Department of Corrections Operating Procedure 030.4: Special Investigations Unit.
- Virginia Department of Corrections Operating Procedure 350.2: Training and Development.
- Virginia Department of Corrections Operating Procedure 038.3: Prison Rape Elimination Act.
- The Moss Group in Collaboration with the National Prison Rape Elimination Act Resource Center PowerPointe Training for agency investigators.
- Interviews with agency Director, facility investigator, Prison Rape Elimination Act Coordinator, regional Prison Rape Elimination Act Analyst, facility Compliance Manager, Assistant Warden, and facility staff.
- Virginia Department of Corrections submitted Pre-Audit Questionnaire.
- Training agenda confirmation, lesson plans, sign in rosters, and certificates of training completion.
- Pocahontas State Correctional Center Warden’s memorandum dated February 1, 2017, confirming that no cases were referred to the Special Investigation Unit and none were referred for criminal prosecution during the previous 12 month period from the audit.
- Internal Incident Reports and PREA Investigative Reports.

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

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

**Auditor discussion, including 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 standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

Auditor comments: The agency and facility answered no on the audit questionnaire along with submitting a written memorandum from the facility warden stating that the facility imposes no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated. Specifically, per agency operational policy and procedure (135.1, 135.2, and 861.1), “A preponderance of the evidence shall be used as the standard in determining whether allegations of sexual abuse or sexual harassment are substantiated (§115.72).

The auditor reviewed the agency and facility policies and procedures (135.1, 135.2, and 861.1); observed agency and facility practices; reviewed data provided by the agency and facility staff; interviewed outside agencies; interviewed the facility investigator along with reviewing investigative files; and interviewed offenders/inmates and staff during an on-site visit and tour of the facility. Based on the listed information, the agency and facility meets the standard and complies with the standard for the relevant review period.

Code of Virginia, Policy, Materials, Interviews and Other Evidence Reviewed:

- Code of Virginia §2.2-1201; §53.1-10; §2.2-2900 et seq.; §18.2-64.2; §18.2-67.4; §18.2-61; §53.1-25; §53.1-26;
- PREA Audit Report

- §53.1-32.01; §53.1-39; §53.1-188; §53.1-189; §53.1-202.4; §18.2-371.2; §18.2-390; §18.2-391; §18.2-67.10.
- Virginia Department of Corrections Operating Procedure 861.1: Offender Discipline, Institutions.
- Virginia Department of Corrections Operating Procedure 135.2: Rules of Conduct Governing Employees Relationships with Offenders.
- Virginia Department of Corrections Operating Procedure 135.1: Standards of Conduct.
- Virginia Department of Corrections Operating Procedure 030.4: Special Investigations Unit.
- Virginia Department of Corrections Operating Procedure 350.2: Training and Development.
- Virginia Department of Corrections Operating Procedure 038.3: Prison Rape Elimination Act.
- The Moss Group in Collaboration with the National Prison Rape Elimination Act Resource Center PowerPointe Training for agency investigators.
- Interviews with agency Director, facility investigator, Prison Rape Elimination Act Coordinator, regional Prison Rape Elimination Act Analyst, facility Compliance Manager, Assistant Warden, and facility staff.
- Virginia Department of Corrections submitted Pre-Audit Questionnaire.
- Training agenda confirmation, lesson plans, sign in rosters, and certificates of training completion.
- Pocahontas State Correctional Center Warden's memorandum dated February 1, 2017, confirming that the facility has no standard higher than a preponderance of the evidence for sexual abuse and sexual harassment reports.

### **Standard 115.73 Reporting to inmates**

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

**Auditor discussion, including 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 standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

Auditor comments: Per agency operating policy and procedure, 038.3 and 030.4, "Reporting to offenders: Following an investigation into an offender's allegation that he or she suffered sexual abuse in a DOC facility, the investigator in charge shall inform the offender as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded (§115.73[a]). Following an offender's allegation that a staff member has committed sexual abuse against the offender, the DOC shall subsequently inform the offender (see Attachment 3, Response to Offender PREA Allegation - Sample Letters) whenever: (§115.73[c]) The DOC has determined that the allegation is unfounded; The DOC has determined that the allegation is unsubstantiated; The staff member is no longer posted within the offender's unit; The staff member is no longer employed at the facility; The DOC learns that the staff member has been indicted on a charge related to sexual abuse within the facility; or The DOC learns that the staff member has been convicted on a charge related to sexual abuse within the facility.

Following an offender's allegation that he or she has been sexually abused by another offender, the agency shall subsequently inform the alleged victim (see Attachment 3, Response to Offender PREA Allegation - Sample Letters) whenever: (§115.73[d]) The DOC has determined that the allegation is unfounded; The DOC has determined that the allegation is unsubstantiated; The DOC learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility; or The DOC learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility. All such notifications or attempted notifications shall be documented and sent to the offender in the same manner as legal mail (See Operating Procedure 803.1, Offender Correspondence for legal mail requirements) (§115.73[e]). DOC's obligation to report under this standard shall terminate if the offender is released from DOC custody. (§115.73[f].)" In accordance with agency memorandum, dated March 9, 2015, update to agency operation policy 038.3, "Reporting to offenders: All such notifications or attempted notifications shall be documented and sent to the offender in the same manner as legal mail (See Operating Procedure 803.1, Offender Correspondence for legal mail requirements) (§115.73[e])."

All such notifications or attempted notifications are documented and retained by the agency. The agency's obligation to report under this standard shall terminate if the inmate is released from the agency's custody. Per agency and facility policies and procedures (038.3 and 030.4); observed agency and facility practices; reviews of data provided by the agency and facility staff; interviews with outside agencies; and interviews with offenders/inmates and staff during an on-site visit and tour of the facility, the agency and facility meets the standard and complies with the standard for the relevant review period.

Code of Virginia, Policy, Materials, Interviews and Other Evidence Reviewed:

- Code of Virginia §2.2-310; §53.1 10; §18.2-64.2; §18.2-67.4; §18.2-61; §18.2-64.2.
- Virginia Department of Corrections Operating Procedure 030.4: Special Investigations Unit.
- Virginia Department of Corrections Operating Procedure 038.3: Prison Rape Elimination Act.
- Interviews with agency Director, facility investigator, Prison Rape Elimination Act Coordinator, regional Prison Rape Elimination Act Analyst, facility Compliance Manager, Assistant Warden, and facility staff.
- Virginia Department of Corrections submitted Pre-Audit Questionnaire.
- Pocahontas State Correctional Center Investigations and Offender Notifications.
- Agency Chief of Corrections Operations memorandum dated March 9, 2015, confirming offender notifications.

### **Standard 115.76 Disciplinary sanctions for staff**

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

**Auditor discussion, including 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 standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

Auditor comments: Per agency operational policy and procedure, 135.1 and 135.2, "Sexual misconduct with offenders: Any behavior of a sexual nature between employees and offenders under the Department of Corrections supervision is prohibited. Staff shall be subject to disciplinary sanctions up to and including termination for violating DOC sexual abuse or sexual harassment policies (§115.76[a]). Termination shall be the presumptive disciplinary sanction for staff who have engaged in sexual abuse (§115.76[b]). Disciplinary sanctions for violations of DOC policies relating to sexual misconduct or sexual harassment (other than actually engaging in sexual abuse) shall 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 (§115.76[c]). Staff who are terminated, or who choose to resign in lieu of termination, for violation of the DOC sexual abuse or sexual harassment policies shall be informed of the DOC's reporting the employment action to any relevant licensing bodies and to law enforcement agencies, unless the activity was clearly not criminal (§115.76[d])."

The auditor reviewed the Code of Virginia, agency and facility policies and procedures (135.2 and 135.1); observed agency and facility practices; reviewed data provided by the agency and facility staff; interviewed outside agencies; and interviewed offenders/inmates and staff during an on-site visit and tour of the facility. Based on the listed information, the agency and facility meets the standard and complies with the standard for the relevant review period.

Code of Virginia, Policy, Materials, Interviews and Other Evidence Reviewed:

- Code of Virginia §2.2-2900 et seq.; §18.2-64.2; §18.2-67.4; §53.1-10; §2.2-1201.
- Virginia Department of Corrections Operating Procedure 135.2: Rules of Conduct Governing Employees Relationships with Offenders dated November 1, 2016.
- Virginia Department of Corrections Operating Procedure 135.1: Standards of Conduct dated October 1, 2015.
- Interviews with agency Director, facility Human Resources Director, Prison Rape Elimination Act Coordinator, regional Prison Rape Elimination Act Analyst, facility Compliance Manager, Assistant Warden, and facility staff.
- Virginia Department of Corrections submitted Pre-Audit Questionnaire.
- Pocahontas State Correctional Center Warden's memorandum, dated February 1, 2017, confirming no disciplinary sanctions on any staff for sexual misconduct this review period.

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

- Exceeds Standard (substantially exceeds requirement of standard)

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

**Auditor discussion, including 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 standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

Auditor comments: Any contractor or volunteer who engages in sexual abuse shall be prohibited from contact with offenders/inmates and shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies. Appropriate steps are taken in reference to remedial measures, and consideration made whether to prohibit further contact with offenders/inmates, in the case of any other violation of agency and facility sexual abuse or sexual harassment policies by a contractor or volunteer.

Specifically, per agency operational policy and procedure, 027.1 and 135.2, "Any contractor or volunteer who engages in sexual abuse of offenders shall be prohibited from contact with offenders and shall be reported to any relevant licensing bodies by the DOC PREA Coordinator, and to law enforcement agencies, unless the activity was clearly not criminal (§115.77[a]). The DOC shall take appropriate remedial measures, and shall 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 (§115.77[b])."

The auditor reviewed the agency and facility policies and procedures (027.1 and 135.2); observed agency and facility practices; reviewed data provided by the agency and facility staff; interviewed outside agencies; and interviewed offenders/inmates and staff during an on-site visit and tour of the facility. Based on the listed information, the agency and facility meets the standard and complies with the standard for the relevant review period.

Code of Virginia, Policy, Materials, Interviews and Other Evidence Reviewed:

- Code of Virginia §2.2-608; §2.2-3600; §2.2-2823; §18.2 473 through 474.1; §19.2 389; §53.1 10; §53.1 30; §2.2-2900 et seq.; §18.2-64.2; §18.2-67.4; §53.1-10
- Virginia Department of Corrections Operating Procedure 135.2: Rules of Conduct Governing Employees Relationships with Offenders dated November 1, 2016.
- Virginia Department of Corrections Operating Procedure 027.1: Volunteer Program dated May 1, 2013.
- Interviews with agency Director, facility Human Resources Director, Prison Rape Elimination Act Coordinator, regional Prison Rape Elimination Act Analyst, facility Compliance Manager, Assistant Warden, Volunteers, Contractors, and facility staff.
- Virginia Department of Corrections submitted Pre-Audit Questionnaire.
- Pocahontas State Correctional Center Warden's memorandum, dated February 1, 2017, confirming no reports of sexual abuse or sexual harassment cases involving a contractor or volunteer this review period.

### **Standard 115.78 Disciplinary sanctions for inmates**

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

**Auditor discussion, including 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 standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

Auditor comments: Sanctions are commensurate with the nature and circumstances of the abuse committed, the offender's/inmate's disciplinary history, and the sanctions imposed for comparable offenses by other offenders/inmates with similar histories. The disciplinary process considers whether a offender's/inmate's mental disabilities or mental illness contributed to their behavior when determining what

type of sanction, if any, should be imposed. A report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred shall not constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation. The agency and facility prohibits all sexual activity between offenders/inmates and may discipline offenders/inmates for such activity. If the facility offers therapy, counseling, or other interventions designed to address and correct underlying reasons or motivations for the abuse, the facility shall consider whether to offer the offending inmate participation in such interventions.

Specifically, per agency operational policy and procedure, 038.3, 820.2, 830.3, and 861.1, "An offender identified as a High Risk Sexual Aggressor (HRSA) (see Operating Procedure 810.1, Offender Reception and Classification) that does not comply with therapy, counseling, or other interventions designed to address and correct underlying reasons or motivations for the abuse should be charged with offense code 200 in accordance with Operating Procedure 861.1, Offender Discipline, Institutions (§115.78[d]). Sexual assault upon or making forcible sexual advances toward a non-offender (§115.78[e]). Sexual assault upon or making forcible sexual advances toward an offender (§115.78[a, g]).

Special Needs (2-CO-4B-01) Offenders identified as high risk of re-offending (HRSA) with a history of sexually assaultive behavior are assessed by a mental health or other qualified professional. Offenders with a history of sexually assaultive behavior are identified, monitored, and counseled. Facilities that offer therapy, counseling, or other interventions designed to address and correct the underlying reasons or motivations for sexually abusive behavior shall determine if offenders who are found guilty of a disciplinary or criminal offense for sexual abuse are required to participate in such interventions as a condition of access to programming or other benefits (§115.78[d]). Offenders that do not comply with therapy, counseling, or other interventions should be charged with offense code 200 in accordance with Operating Procedure 861.1, Offender Discipline, Institutions or offense code 217 in accordance with Operating Procedure 861.2 Offender Discipline, Community Corrections Facilities (§115.78[d]). An offender who makes a report of offender-on-offender sexual violence or employee sexual misconduct or harassment that is determined to be false, may be charged with a disciplinary offense if it is determined the report was made in bad faith following consultation with the PREA Analyst. Offenders shall not be charged for reports of sexual abuse made in good faith, based upon a reasonable belief that the alleged conduct occurred (§115.78[f])."

Per the Pocahontas State Correctional Center Offender Orientation Manual, "Disciplinary hearings are held in the housing units. The hearing date is documented on the bottom of your charge unless you receive a revised notice. On your hearing date, you are required to remain in your building until the hearing is conducted. THERE ARE NO EXCEPTIONS TO THIS RULE. You are responsible for informing your teacher and/or work supervisor that you will not be available the day of your hearing. Failure to remain in the building and be available for the hearing will result in the hearing being held without you present. Offenders are to be fully dressed in their blues, have their ID card, and be ready to proceed with the hearing. Once you are assigned an advisor or are in your hearing process, you are to remain in this process until your hearing is held. If you go back to your cell or pod, or walk off, this will be considered a 'refusal to appear.' The disciplinary paperwork remains in the possession of the advisor for the advisor to review with the offender. Offenders are to process the correct forms. Reporting Officer Response Forms are to be completed only for the Reporting Officer. Witness Request Forms are to be completed for offender witnesses, staff, or other witnesses. These forms are to be completely filled out and forward by Institutional Mail in time to be in the Hearings Officer's office within 48 hours of the charge being served (this does include weekends); therefore, these forms should be placed in the mail prior to the morning meal. Forms are available to the offender UPON REQUEST in their housing unit. Appeals must be submitted to the Warden's Office within fifteen (15) calendar days of the offender's receipt of their copy. Offenders are to request only the number of forms they will use for the intended purposes. Abuse of these forms (including forms for gambling, notes, writing letters, etc.) is not permitted. These forms are state property."

The auditor reviewed the Code of Virginia, agency and facility policies and procedures (038.3, 820.2, 830.3, and 861.1); observed agency and facility practices; reviewed data provided by the agency and facility staff; interviewed outside agencies; and interviewed offenders/inmates and staff during an on-site visit and tour of the facility. Based on the listed information, the agency and facility meets the standard and complies with the standard for the relevant review period.

#### Code of Virginia, Policy, Materials, Interviews and Other Evidence Reviewed:

- Code of Virginia §18.2-61; §18.2-64.2; §18.2-67.10; §18.2-67.4; §2.2-221.1; §32.1-36.1; §53.1-10; §53.1-28; §53.1-31.2; §53.1-32.1; §53.1-32.2; §53.1-40.01; §53.1-40.10; §53.1-133.03; §53.1-155.1; §53.1-190; §53.1-231.2; §53.1-32.1; §53.1-116; §53.1-189 through 202.4; §53.1-25; §53.1-26; §53.1-32.01, §53.1-39; §53.1-188; §53.1-189; §53.1-202.4; §18.2-371.2; §18.2-390; §18.2-391.
- Virginia Department of Corrections Operating Procedure 038.3: Prison Rape Elimination Act dated May 1, 2016.
- Virginia Department of Corrections Operating Procedure 820.2: Re-entry Planning dated March 1, 2017.
- Virginia Department of Corrections Operating Procedure 830.3: Good Time Awards dated December 1, 2105.
- Virginia Department of Corrections Operating Procedure 861.1: Offender Discipline, Institutions dated January 1, 2016.
- Interviews with agency Director, facility Hearing Officer, Prison Rape Elimination Act Coordinator, regional Prison Rape Elimination Act Analyst, facility Compliance Manager, Assistant Warden, and facility staff.
- Virginia Department of Corrections submitted Pre-Audit Questionnaire.

- Pocahontas State Correctional Center Warden's memorandum, dated February 1, 2017, confirming no offenders have been charged with a disciplinary offense due to allegation of sexual abuse this review period.
- Pocahontas State Correctional Center Offender Orientation Manual (Rule Book).

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

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

**Auditor discussion, including 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 standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

Auditor comments: In accordance with Prison Rape Elimination Act standard 115.41, if the medical and mental health screening indicates that a inmate has experienced prior sexual victimization, whether it occurred in an institutional setting or in the community, agency staff ensures that the inmate is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening. If the screening indicates that a inmate has previously perpetrated sexual abuse or sexual victimization, whether it occurred in an institutional setting or in the community, agency and facility staff shall ensure that the inmate is offered a follow-up meeting with a mental health practitioner within 14 days of the intake process.

Specifically, per agency policy and procedure, 730.2, 701.3, 425.4, "In institutions, within 14 days of completion of the Classification Assessment, the QMHP will notify offenders identified as HRSA or HRSV of the availability of a follow-up meeting with a mental health practitioner and relevant available treatment and programming. Notification will be documented on the Prison Rape Elimination Act (PREA) QMHP Follow-Up 730\_F28 (§115.81[a, b]). Any information related to sexual victimization or abusiveness that occurred in an institutional setting shall be strictly limited to medical and mental health practitioners and other staff, as necessary, to inform treatment plans and security and management decisions, including housing, bed, work, education, and program assignments, or as otherwise required by Federal, State, or local law (§115.81[d]). Medical and mental health practitioners shall obtain informed consent (Consent for Release of Information 050\_F14 or Consent for Release of Confidential Health and/or Mental Health Information 701\_F8) from offenders before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the offender is under the age of 18 (§115.81[e]). Medical and mental health practitioners shall obtain informed consent from offenders before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the inmate is under the age of 18 (§115.81 [e]). Housing assignments and other management practices must be designed to protect offenders from personal abuse, corporal punishment, personal injury, disease, property damage, and harassment. Any information related to sexual victimization or abusiveness that occurred in an institutional setting shall be strictly limited to medical and mental health practitioners and other staff, as necessary, to inform treatment plans and security and management decisions, including housing, bed, work, education, and program assignments, or as otherwise required by Federal, State, or local law (§115.81[d])."

Intake data is entered into the agency CORIS system (computer-based operating system). The auditor interviewed the facility staff, Health Authority staff, mental health staff, and the offender/inmate intake staff. The auditor reviewed the agency and facility policies and procedures (425.4, 701.3, 730.2); observed agency and facility practices; reviewed data provided by the agency and facility staff; interviewed outside agencies; and interviewed offenders/inmates and staff during an on-site visit and tour of the facility. Based on the listed information, the agency and facility meets the standard for the relevant review period.

Code of Virginia, Policy, Materials, Interviews and Other Evidence Reviewed:

- Code of Virginia §53.1-10; §8.01-413(B); §32.1-36.1; §32.1-127.1:03; §53.1-40.10; §53.1-32.
- Virginia Department of Corrections Operating Procedure 425.4: Management of Bed and Cell Assignments dated February 1, 2106.
- Virginia Department of Corrections Operating Procedure 701.3: Health Records dated February 1, 2016.
- Virginia Department of Corrections Operating Procedure 730.2: Mental Health Services: Screening, Assessment, and Classification dated December 1, 2015.
- Virginia Department of Corrections High Risk Sexual Victimization (HRSV) and High Risk Sexual Aggressor (HRSA) Forms 730\_F28\_2-14 and Consent for Release Form 050\_F14\_8-12.

- Interviews with agency Director, facility Health Authority Director, Prison Rape Elimination Act Coordinator, regional Prison Rape Elimination Act Analyst, facility Compliance Manager, mental health staff, Assistant Warden, and facility staff.
- Virginia Department of Corrections submitted Pre-Audit Questionnaire.

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

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

**Auditor discussion, including 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 standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

Auditor comments: The Bluefield Regional Medical Center is the nearest major regional hospital from the Pocahontas State Correctional Center. It is located at 500 Cherry Street, in Bluefield, (304) 327-1100. The hospital is rated as a Trauma Center Designation IV and operates a full service emergency room/department. The hospital is located approximately 25-30 minutes or 15-20 miles away from the Pocahontas State Correctional Center. The facility has access to emergency medical and mental health services. Offender/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. If no qualified medical or mental health practitioners are on duty at the time a report of recent abuse is made, security staff first responders take preliminary steps to protect the victim and shall immediately notify the appropriate medical and mental health practitioners. Offender/Inmate victims of sexual abuse while incarcerated are offered timely information about and timely access to emergency sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care, where medically appropriate. Treatment services are 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.

Specifically, per agency operational and facility policy, 038.3, 075.1, 720.4, 720.7, 730.2, "Sexual Abuse/Assault Response: Access to emergency medical services. Offender victims of sexual abuse shall 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 (see Nursing Evaluation Tool - Sexual Assaults) (§115.82[a]). If no qualified medical and mental health practitioners are on duty at the time a report of recent abuse is made, security staff first responders shall take preliminary steps to protect the victim and shall immediately notify the appropriate medical and mental health practitioners (§115.82[b]). Offender victims of sexual abuse while incarcerated shall be offered timely information about and timely access to sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care, where medically appropriate (§115.82[c]). Treatment services shall 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. (§115.82[d])."

Auditor note: The National Center for Victims of Crime recently initiated and launched the Victim Connect Resource Center which is a resource for victims, to include but not limited to, providing critical, confidential assistance through phone, text, and chat along with interpreter services in over 200 languages. These services can be accessed at 1-855-4VICTIM or [www.chat.victimconnect.org](http://www.chat.victimconnect.org). The anti-sexual assault organization, RAINN, operates a national hotline at 1-800-656-4673 with access to a range of free services.

The auditor reviewed the agency and facility policies and procedures (038.3, 075.1, 720.4, 720.7, 730.2); observed agency and facility practices; reviewed data provided by the agency and facility staff; interviewed the facility Health Authority; interviewed facility mental health staff; interviewed outside agencies; and interviewed offenders/inmates and staff during an on-site visit and tour of the facility. The agency and facility meets and complies with the standard for the relevant review period.

Code of Virginia, Policy, Materials, Interviews and Other Evidence Reviewed:

- Code of Virginia §18.2-61; §18.2-64.2; §18.2-67.10; §18.2-67.4; §53.1-10; §44-146.13, et seq.; §53.1-32.
- Virginia Department of Corrections Operating Procedure 038.3: Prison Rape Elimination Act dated May 1, 2016.
- Virginia Department of Corrections Operating Procedure 075.1: Emergency Operations Plan dated January 1, 2015.
- Virginia Department of Corrections Operating Procedure 720.4: Co-Payment for Health Care Services dated October 1, 2014.

- Virginia Department of Corrections Operating Procedure 720.7: Emergency Medical Equipment and Care dated October 1, 2016.
- Virginia Department of Corrections Operating Procedure 730.2: Mental Health Services: Screening, Assessment, and Classification dated December 1, 2015.
- Interviews with agency Director, facility Health Authority Director, Prison Rape Elimination Act Coordinator, regional Prison Rape Elimination Act Analyst, facility Compliance Manager, mental health staff, Assistant Warden, and facility staff.
- Virginia Department of Corrections submitted Pre-Audit Questionnaire.
- Pocahontas State Correctional Center Investigation Reports and Screening.

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

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

**Auditor discussion, including 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 standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

Auditor comments: The auditor interviewed the Pocahontas State Correctional Center Health Authority and mental health staff to confirm compliance with the Standard. The agency and facility offers medical and mental health evaluation and, as appropriate, treatment to all inmates who have been victimized by sexual abuse in the facility. 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. The agency and facility provides such victims with medical and mental health services consistent with the community level of care. Inmate victims of sexual abuse while incarcerated are offered tests for sexually transmitted infections as medically appropriate. Treatment services are 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.

Specifically, per agency operational and facility policy and procedure, 720.4, 720.7, 730.2, "Ongoing medical and mental health care for sexual abuse victims and abusers: The facility shall offer medical and mental health evaluation and, as appropriate, treatment to all offenders who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility (§115.83[a]). The evaluation and treatment of such victims shall 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 (§115.83[b]). The facility shall provide such victims with medical and mental health services consistent with the community level of care (§115.83[c]). Offender victims of sexually abusive vaginal penetration (if applicable) while incarcerated shall be offered pregnancy tests (§115.83[d]). If pregnancy results from the conduct described in this section, such victims shall receive timely and comprehensive information about and timely access to all lawful pregnancy-related medical services (§115.83[e]). Offender victims of sexual abuse while incarcerated shall be offered tests for sexually transmitted infections as medically appropriate (§115.83[f]). Treatment services shall 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 (§115.83[g])."

The auditor interviewed the facility staff during the on-site portion of the Prison Rape Elimination Act audit. The auditor reviewed the agency and facility policies and procedures (720.4, 720.7, 730.2); observed agency and facility practices; reviewed data provided by the agency and facility staff; interviewed outside agencies; and interviewed offenders/inmates and staff during an on-site visit and tour of the facility. The agency and facility meets the standard and complies with the standard for the relevant review period.

Code of Virginia, Policy, Materials, Interviews and Other Evidence Reviewed:

- Code of Virginia §53.1-10; §44-146.13, et seq.; §53.1-32.
- Virginia Department of Corrections Operating Procedure 720.4: Co-Payment for Health Care Services dated October 1, 2014.
- Virginia Department of Corrections Operating Procedure 720.7: Emergency Medical Equipment and Care dated October 1, 2016.
- Virginia Department of Corrections Operating Procedure 730.2: Mental Health Services: Screening, Assessment, and Classification dated December 1, 2015.
- Interviews with agency Director, facility Health Authority Director, Prison Rape Elimination Act Coordinator, regional Prison Rape Elimination Act Analyst, facility Compliance Manager, mental health staff, Assistant Warden, and facility staff.
- Virginia Department of Corrections submitted Pre-Audit Questionnaire.

- Pocahontas State Correctional Center Investigation Reports and Screening.

### **Standard 115.86 Sexual abuse incident reviews**

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

**Auditor discussion, including 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 standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

Auditor comments: The agency and facility conducts a sexual abuse incident review, per agency regulation 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. This review ordinarily occurs within 30 days of the conclusion of the investigation. The review team includes upper-level management officials, with input from line supervisors, investigators, and medical or mental health practitioners. The agency and facility review team considers the following:

- 1) Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse;
- 2) Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; gay, bisexual, transgender, or intersex identification, status, or perceived status; or gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility;
- 3) Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse;
- 4) Assess the adequacy of staffing levels in that area during different shifts;
- 5) Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff; and
- 6) Prepare a report of its findings, including but not necessarily limited to determinations made pursuant to above paragraph numbers 1 to 5, and any recommendations for improvement, and submit such report to the facility head and Prison Rape Elimination Act compliance manager.

Specifically, per agency and facility operational policy and procedure, 038.1 and 038.3, "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 (§115.86[a]). A sexual harassment incident review shall be conducted at the conclusion of every investigation into an allegation of sexual harassment where the allegation has been determined to be substantiated. Other incidents deemed to need a critical review as determined by the Unit Head, Regional Administrator, Regional Operations Chief, or Chief of Corrections Operations. For Critical Incidents where the Incident Command System is implemented, the After Action Report/Improvement Plan may serve as the Review of Incident. Conduct of Review: (§115.86[d]). 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 line supervisors, investigators, and medical or mental health practitioners for all sexual abuse and harassment incident reviews (§115.86[c]). The review should begin as soon as practical after the incident and a Report of Incident Review 038\_F3 submitted within 7 working days of the initial Incident Report. Follow-up reports may be submitted if all information is not available within 7 working days (§115.86[b]).

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 (§115.86[d](2)). Assess the adequacy of staffing in that area during different shifts (§115.86[d](4)). Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff (§115.86[d](5)).

Review of Incident Report, investigation reports, and any other available documentation. Interview participants and witnesses. Examine any physical evidence. Examine the area where the incident allegedly occurred to assess whether physical barriers in the area may have contributed to the incident (§115.86[d](3)). Review relevant operating procedures, training manuals, equipment operating manuals, safety program guides, etc. Develop the unit's action plan to limit future incidents. The review of incident will be documented on a Report of Incident Review 038\_F3. 5. Report of Incident Review 038\_F3 (§115.86[d](6)). Provide a brief summary of the incident; clarify the original Incident Report as needed. Provide an analysis of the causal factors and contributing circumstances. 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 (§115.86[d(1)]). 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 (§115.86[e]). Submit to the Regional Office for review by the Regional Administrator and/or Regional Operations Chief. A copy of all Report of Incident Reviews for sexual abuse and sexual harassment shall be submitted to the Regional PREA Analyst as provided in Operating Procedure 038.3, Prison Rape Elimination Act (PREA) (§115.86[d(6)]). Submit as an Addendum to or upload as an external document to the original Incident Report in VACORIS (agency computer-based operating system) after completion of Regional Office review. Incident Reviews for sexual abuse and sexual harassment shall not be uploaded to VACORIS; a copy shall be maintained at the facility. Submit as an email attachment to the DOC Director, Chief of Corrections Operations, and OLU Operations Center.”

Facility staff provided the auditor with secondary documentation confirming compliance with the standard. Specifically, agency form 038\_F3\_6-13: Report of Incident Reviews. The auditor reviewed the agency and facility policies and procedures (038.1 and 038.3); observed agency and facility practices; reviewed data provided by the agency and facility staff; interviewed outside agencies; and interviewed offenders/inmates and staff during an on-site visit and tour of the facility. The auditor emphasized the importance of reviewing past incidents at the exit briefing during the on-site portion of the audit process for continued process improvements and staff training. Based on the listed information, the agency and facility meets the standard and complies with the standard for the relevant review period.

Code of Virginia, Policy, Materials, Interviews and Other Evidence Reviewed:

- Code of Virginia §53.1-10, §53.1-25 §18.2-61; §18.2-64.2; §18.2-67.10; §18.2-67.4; §44-146.13, et seq.; §53.1-32.
- Virginia Department of Corrections Operating Procedure 038.3: Prison Rape Elimination Act dated May 1, 2016.
- Virginia Department of Corrections Operating Procedure 038.1: Reporting Serious or Unusual Incidents dated May 1, 2016.
- Interviews with agency Director, Prison Rape Elimination Act Coordinator, regional Prison, Incident Review board members, Rape Elimination Act Analyst, facility Compliance Manager, mental health staff, Assistant Warden, and facility staff.
- Virginia Department of Corrections submitted Pre-Audit Questionnaire.
- Pocahontas State Correctional Center Report of Incident Reviews and memorandum from facility Warden.

### **Standard 115.87 Data collection**

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

**Auditor discussion, including 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 standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

Auditor comments: The auditor interviewed the agency Prison Rape Elimination Act Coordinator, and she confirmed the secure process of data collection in order to assess and improve the effectiveness of the agency’s sexual abuse prevention, detection, and response policies, and training. The agency and facility uses a computer-based operating system called VACORIS.

The agency collects accurate, uniform data for 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 incident-based data collected shall 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. The agency maintains, reviews, and collects data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews. Upon request, the agency shall provide all such data from the previous calendar year to the United States Department of Justice no later than June 30.

Specifically, per agency operational policy and procedure, 038.3, “Data Collection: The DOC shall collect accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions (§115.87[a]). The agency shall aggregate the incident-based sexual abuse data at least annually (§115.87[b]). The incident-based data collected shall 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 (§115.87[c]). The agency shall maintain, review, and collect data as needed from all available incident-based

documents, including reports, investigation files, and sexual abuse incident reviews (§115.87[d]). The agency also shall obtain incident-based and aggregated data from every private facility with which it contracts for the confinement of its offenders (§115.87[e]). Upon request, the DOC shall provide all such data from the previous calendar year to the Department of Justice no later than June 30 (§115.87[f]).”

The auditor received the most recent submission of the Survey of Sexual Victimization form. The agency actively utilizes a computer-based program to document and track agency wide data along with maintaining a website at [www.vadoc.virginia.gov](http://www.vadoc.virginia.gov). The agency tracks incidents at all of its facilities and maintains an annual report. The auditor reviewed the agency policy and procedure (038.3); observed agency and facility practices; reviewed data provided by the agency and facility staff; interviewed outside agencies; and interviewed offender/inmate and staff during an on-site visit and tour of the facility. Based on the listed information, the auditor determination is that the agency and facility exceeds the standard for the relevant review period due to the extensive data collection, analysis, and process improvement initiatives.

Code of Virginia, Policy, Materials, Interviews and Other Evidence Reviewed:

- Code of Virginia §18.2-61; §18.2-64.2; §18.2-67.10; §18.2-67.4.
- Virginia Department of Corrections Operating Procedure 038.3: Prison Rape Elimination Act dated May 1, 2016.
- Interviews with agency Director, Prison Rape Elimination Act Coordinator, regional Prison, Incident Review board members, Rape Elimination Act Analyst, facility Compliance Manager, mental health staff, Assistant Warden, and facility staff.
- Virginia Department of Corrections submitted Pre-Audit Questionnaire.
- Survey of Sexual Victimization.

#### **Standard 115.88 Data review for corrective action**

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

**Auditor discussion, including 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 standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

Auditor comments: The auditor interviewed the Virginia Department of Corrections Prison Rape Elimination Act Coordinator to confirm compliance with the Standard. The agency reviews data collected and aggregated in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, by:

- 1) Identifying problem areas;
- 2) Taking corrective action on an ongoing basis; and
- 3) Preparing an annual report of its findings and corrective actions for each facility, as well as the agency as a whole.

Specifically, per agency policy and procedure, 038.3, “Data Review for Corrective Action: The DOC shall review data collected and aggregated pursuant to this operating procedure in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by: (§115.88[a]) Identifying problem areas; Taking corrective action on an ongoing basis; and Preparing an annual report of its findings and corrective actions for each facility, as well as the agency as a whole. Such report shall include a comparison of the current year’s data and corrective actions with those from prior years and shall provide an assessment of the DOC’s progress in addressing sexual abuse (§115.88[b]). The DOC report shall be approved by the Director and made readily available to the public through its website (§115.88[c]). The DOC may redact specific material from the reports when publication would present a clear and specific threat to the safety and security of a facility, but must indicate the nature of the material redacted (§115.88[d]).”

The auditor commended the Pocahontas State Correctional Center’s Buildings and Grounds Staff for the creative implementation of privacy covers for the two offender shower stalls in the facility restrictive housing unit. This specific item was mentioned in the agency-wide 2016 Annual Report and is exactly what the auditor needed to see to confirm compliance not only at the facility level but agency level as well with the Standard. The agency Prison Rape Elimination Act Coordinator and facility level Prison Rape Elimination Act Compliance Manager work together to comply with the Standard. The auditor was impressed with the agency website. The agency and facility meets the

standard for the relevant rating period.

Code of Virginia, Policy, Materials, Interviews and Other Evidence Reviewed:

- Code of Virginia §18.2-61; §18.2-64.2; §18.2-67.10; §18.2-67.4.
- Virginia Department of Corrections Operating Procedure 038.3: Prison Rape Elimination Act dated May 1, 2016.
- Interviews with agency Director, Prison Rape Elimination Act Coordinator, regional Prison, Incident Review board members, Rape Elimination Act Analyst, facility Compliance Manager, mental health staff, Assistant Warden, and facility staff.
- Virginia Department of Corrections submitted Pre-Audit Questionnaire.
- Virginia Department of Corrections 2015 and 2016 Annual Reports.

**Standard 115.89 Data storage, publication, and destruction**

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

**Auditor discussion, including 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 standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

Auditor comments: The auditor thoroughly reviewed the Virginia Department of Corrections website at [www.vadoc.virginia.gov](http://www.vadoc.virginia.gov). The auditor was impressed with the sections addressing the Prison Rape Elimination Act. Before making aggregated sexual abuse data publicly available, the agency removes all personal identifiers. The agency maintains sexual abuse data collected for at least 10 years after the date of the initial collection.

Specifically, agency operational policy and procedure, 038.3, "Data storage, publication, and destruction: The DOC shall ensure that data collected of allegations of sexual abuse at facilities under its direct control are securely retained (§115.89[a]). The DOC shall 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 (§115.89[b]). Before making aggregated sexual abuse data publicly available, the DOC shall remove all personal identifiers (§115.89[c]). The DOC shall maintain this sexual abuse data collected for at least 10 years after the date of the initial collection unless Federal, State, or local law requires otherwise (§115.89[d])."

The agency actively maintains a website. The Virginia Department of Corrections and the Pocahontas State Correctional Center meets the standard for the relevant review period. The auditor also confirmed that the agency is actively posting current results of ongoing Prison Rape Elimination Act audits on the agency website for calendar year 2017 in accordance with Standard 115.89.

Code of Virginia, Policy, Materials, Interviews and Other Evidence Reviewed:

- Code of Virginia §18.2-61; §18.2-64.2; §18.2-67.10; §18.2-67.4.
- Virginia Department of Corrections Operating Procedure 038.3: Prison Rape Elimination Act dated May 1, 2016.
- Interviews with agency Director, Prison Rape Elimination Act Coordinator, regional Prison, Rape Elimination Act Analyst, facility Compliance Manager, Assistant Warden, and facility staff.
- Virginia Department of Corrections submitted Pre-Audit Questionnaire.
- Virginia Department of Corrections 2015 and 2016 Annual Reports.

**AUDITOR CERTIFICATION**

I certify that:

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

- No conflict of interest exists with respect to my ability to conduct an audit of the agency under review, and
- I have not included in the final report any personally identifiable information (PII) about any inmate or staff member, except where the names of administrative personnel are specifically requested in the report template.

Walter Sipple

Auditor Signature

June 8, 2017

Date