

# PREA AUDIT: AUDITOR'S SUMMARY REPORT ADULT PRISONS & JAILS

PREA AUDIT REPORT     Interim     Final

Date of report: March 6, 2017

<b>Auditor Information</b>			
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<b>Date of facility visit:</b> January 25 – 27, 2017			
<b>Facility Information</b>			
<b>Facility name:</b> Boonville Correctional Center			
<b>Facility physical address:</b> 1216 E Morgan, Boonville, MO 65233			
<b>Facility mailing address:</b> <i>(if different from above)</i> <a href="#">Click here to enter text.</a>			
<b>Facility telephone number:</b> 660-646-4032			
<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> Jeff Norman , Warden			
<b>Number of staff assigned to the facility in the last 12 months:</b> 302			
<b>Designed facility capacity:</b> 1346			
<b>Current population of facility:</b> 1322			
<b>Facility security levels/inmate custody levels:</b> C-1 minimum			
<b>Age range of the population:</b> 18- 80			
<b>Name of PREA Compliance Manager:</b> Rebecca Ehlers		<b>Title:</b> Deputy Warden	
<b>Email address:</b> Rebecca.Ehlers@doc.mo.gov		<b>Telephone number:</b> 660-882-6521 Ext 104	
<b>Agency Information</b>			
<b>Name of agency:</b> Missouri Department of Corrections			
<b>Governing authority or parent agency:</b> <i>(if applicable)</i> <a href="#">Click here to enter text.</a>			
<b>Physical address:</b> 2729 Plaza Drive, Jefferson City, MO 65102			
<b>Mailing address:</b> <i>(if different from above)</i> <a href="#">Click here to enter text.</a>			
<b>Telephone number:</b> 573-526-6607			
<b>Agency Chief Executive Officer</b>			
<b>Name:</b> George Lombardi		<b>Title:</b> Director	
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<b>Agency-Wide PREA Coordinator</b>			
<b>Name:</b> Vevia Sturm		<b>Title:</b> PREA Coordinator	
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## AUDIT FINDINGS

### NARRATIVE

#### PRE-AUDIT

A Notice of PREA Audit was sent to Boonville Correctional Center (BCC) on December 15, 2016 via the Site Coordinator, Rebecca Ehlers, and the Missouri Department of Corrections Statewide PREA Coordinator, Vevia Sturm. Notices were to be posted in all living units, program areas, recreation areas and any other areas that offenders would gather. The notice also contained contact information of the auditor and advised staff and offenders that the onsite portion of the PREA audit will be conducted on January 25 – 27, 2017. At this time, this auditor requested that the pre-audit questionnaire (PAQ) be sent to me no later than January 11, 2017. It should be noted that this audit is being conducted as part of five-state circular audit consortium consisting of Nebraska, Kansas, Missouri, Kentucky and Louisiana.

On January 10, 2017, this auditor received a flash drive containing BCC's Pre-Audit Questionnaire. The flash drive contained department and agency policies, curriculum and other supporting documentation. The files were divided up by standard and were easy to read and navigate.

The auditor reviewed the provided documentation and began completing the Auditor's Compliance Tool to determine a baseline for compliance and to formulate questions for the onsite portion of the audit.

On January 23, 2017, a tentative agenda for the PREA audit was sent the Site Coordinator and the PREA Coordinator for MDOC. This agenda outlined the when the auditing would be on site, the types of staff and inmates that would be interviewed and when the audit would conclude. The Site Coordinator was advised of which specialized staff would be interviewed as well as which specialized inmate populations would be interviewed.

#### ONSITE

The auditor was accompanied on the site visit by a members of the Kansas PREA team; Terrell Brooks, Central Office PREA Specialist and Doug Lawson, Deputy Warden and Certified DOJ Auditor. The team was greeted and given a history and the layout of the facility by Warden Jeff Norman and Deputy Warden (Site Coordinator) Rebecca Ehlers as well as other Executive Team members. The agency Assistant PREA Coordinator Adam Albach was also in attendance throughout the audit process. After the initial meeting, a detailed tour was provided to the auditing team.

Warden Jeff Norman and Site Coordinator Rebecca Ehlers lead the onsite tour. The tour began with the housing units.. The auditor viewed camera placements, showers/restrooms and observed cross-gendered announcements being made to offenders. PREA reporting information was clearly marked on bulletin boards in each living unit. It was noted that emotional support service information was missing in some of the units and they were quickly replaced by administration. In all living units toilets and shower stalls all had appropriate coverings. The "Notice of PREA Audit" was also clearly visible throughout the tour.

In addition to the living units, intake, medical area, outside recreation, inside recreation, dining areas, library, programs, and control posts were also toured. PREA reporting information in English and Spanish were found on every bulletin board and were clearly marked.

In several of the housing units cameras were found to in the shower and toilet areas, with some cameras facing the shower stalls. The auditing team expressed concern as the live feeds of these areas were being seen by any staff member at the officer station. Live feed access as removed from the officer stations. It was then learned that the only personnel having access to the live were the Warden, Assistant Warden (both male) and the Administrative Investigative Officer who is female. This still raised a concern as the female officer had access to live feed when not investigation an incident (per her duties.) The administration were quick to address this concern and issued the following memo dated January 25, 2017: "Effective immediately live feed from bathroom areas is to be removed from Laura Friesz' camera operations sign on. When an investigation regarding an incident that happened or may have happened in a bathroom needs review, the electronic technicians will be notified by the warden to grant access to the AIO for review and recording purposes. At the conclusion of her viewing/burning the footage for investigative purposes, the electronic technicians will be notified to remove access by the warden's office."

Immediately after the tour, the Site Coordinator provided the auditing team with staff rosters from all three shifts and provided a list of specialized staff. The auditor then randomly selected from each shift, as well as established times to interview specialize staff.

The Site Coordinator provided the auditor with housing unit rosters. In reviewing the housing rosters the auditor randomly selected two - four inmates from each unit for a total of 36 inmates to be interviewed. BCC provided confidential locations in the training center for the auditing team to interview inmates.

BCC provided appropriate accommodations for the auditors to conduct inmate and staff interviews. The auditor was given access to staff

files, inmate files and any documentation that was requested. Facility staff was great to work with and were very accommodating. The Site Coordinator and Warden were readily available to answer any questions and assist in any way. Staff at BCC was extremely helpful and polite throughout the entire process and escorted the audit team to each housing unit.

Auditors interviewed a total of 36 inmates that had various lengths of stay. The auditors interviewed a total of 19 staff to include the Warden, Mental Health Staff, Human Resources staff, Training Director, Chief of Custody, Intake Staff, as well as random staff from all housing units.

Prior to the exit interview, the auditor reviewed onsite documentation and discussed results of interviews conducted by Terrell Brooks and Doug Lawson. We compared notes and reviewed standards. There was an exit interview conducted at the end of the site visit.

#### POST AUDIT

After the onsite portion of the PREA audit, this auditor reviewed the notes from the tour; all interviews conducted and did another review of the supporting documentation. Work on the final audit report began.

On March 15, 2017, the PREA audit report was submitted to the PREA Resource Center and copies were sent to the Warden and Deputy Warden of BCC, as well as, the statewide PREA coordinator.

## **DESCRIPTION OF FACILITY CHARACTERISTICS**

### **OVERVIEW:**

The Boonville Correctional Center (BCC) is located in Boonville, Missouri. It was constructed in 1889 and is located at the former Missouri Training School for Boys. The facility was transferred to the Department of Corrections on July 1, 1983. BCC consists of 31 buildings. Inmate housing, which consists of 12 housing units, includes two, four, and six person rooms, twelve, sixteen, eighteen and twenty person rooms, twenty-four, twenty-six, twenty-eight and thirty person rooms, thirty-two and thirty-six person rooms, and fifty and sixty person rooms.

BCC receives offenders sentenced to the Missouri Department Corrections. BCC also houses probation/parole returns as well as those offenders sentenced to treatment.

The current population at BCC is 1,322 adult male offenders. During the past 12 months 2,157 offenders have been admitted to this facility. Of this number, 2,034 admitted had a length of stay longer than thirty days. The age range of the current offender populations is 18- 80 with custody levels being minimum custody.

BCC has 302 employees who have contact with the offender population. This staff is responsible for the security of all buildings located at BCC. In addition to its 302 employees, BCC also has 49 volunteers and individual contractors who are currently authorized to enter the facility. There are 32 investigators across the State of Missouri with two investigators beings assigned to BCC.

BCC is located within a secure perimeter. The facility has the official capacity to house 1,346 offenders.

## SUMMARY OF AUDIT FINDINGS

It's clear that BCC believes that incarcerated individuals have the right to be free from sexual abuse and sexual harassment. This zero-tolerance culture is evident in the policies of the agency, the actions of BCC leadership as well as the knowledge the staff demonstrated of PREA. BCC leadership was quick to ask great questions when it came to the cross-gender viewing of the toilets in the segregation and crises level units. They were very open with the auditing team and wanted team's input. Staff was able to articulate the agencies coordinated response to sexual abuse and harassment.

The overall theme of the interviews with inmates included feeling safe at the facility and the belief that staff takes reports of sexual abuse seriously. The inmates were able to explain how to report incidents of sexual abuse and harassment and were able to discuss how they were exposed to PREA education upon intake. While some stated they could not remember the PREA video in its entirety, they did remember viewing it. All inmates reported they knew that opposite gender staff announced themselves at the beginning of each shift. Several inmate interviews indicated that once a PREA allegation was made, the victim was immediately placed in segregation. The auditor reviewed additional random files while on site which are maintained by the Site Coordinator and found that this was not the practice of BCC.

Staff knew their responsibilities to prevent, detect, and respond to incidents of sexual abuse and harassment. Staff was able to articulate the coordinated response to sexual abuse and harassment. They knew to separate the victim from the alleged perpetrator, secure the scene and to contact their supervisor. They stated that all reports would be documented by the end of shift. They also stated that if they received knowledge of someone being in imminent danger they would immediately secure the safety of that individual. It is clear that there is a zero –tolerance culture at BCC.

Interviews with specialized staff were completed and the results were positive and supported the zero-tolerance culture. Each knew their role and responsibilities as it pertains to PREA compliance and documentation. They articulated the coordinated response and the expectations that staff would follow all policies. Administrative staff was very open to any suggestions the auditors presented during the tour and the exit meeting.

Documentation provided in the pre-audit questionnaire was well organized and easy to read. BCC was found to be in compliance with all PREA standards and was determined to have exceeded two of them.

Number of standards exceeded: 0

Number of standards met: 42

Number of standards not met: 0

Number of standards not applicable: 2

### **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.**

**115.11(a)** BCC has a written policy mandating zero tolerance toward all forms of sexual abuse and sexual harassment. (See D1-8.13 Offender Sexual Abuse and Harassment, Section III (A)(2), page 6: “The department has zero tolerance for all forms of offender sexual abuse, harassment, and retaliation.” In this same policy the agency outlines how they will implement the agency’s approach to preventing, detecting, and responding to sexual abuse and sexual harassment. This outline can be found starting on page 6 and ends on page 27.

This same policy also includes specific definitions of offender –on-offender sexual abuse as well as offender-on-offender sexual harassment. Definitions in this policy also define staff-on-offender sexual abuse and staff-on-offender sexual harassment.

BCC also has an additional policy that addresses zero tolerance towards all forms of sexual abuse and sexual harassment. (See D1-8.6 Offender Physical Abuse, Section III (A)(3), page 3: “The department has zero tolerance for all forms of offender abuse and retaliation.” In III (B)(1) page 3 it further states, “Failure to report that an offender has been abused is a class A misdemeanor.”

In addition to this policy, IS19-1.1, “Conduct Rules and Sanctions,” Section II (N) Rules of Conduct (7), page 3, defines Forcible Sexual Misconduct: 7.1 Using force, coercion or threats of force to obtain the compliance of another in any type of sexual activity. On page 9 of this same policy, it states, “The first 9 conduct violations rules (1-9.4) shall be considered major conduct violations. Major conduct violations shall normally result in more severe sanctions than other violations. Any conduct violations, under unusual or extreme conditions, may be considered a major violation if so recommended by the adjustment board and approved by the warden/designee.”

The auditor also reviewed the employee handbook. On page 20, “Offender Abuse and Sexual Contact with an Offender,” it states, “...A person commits the crime of offender abuse by knowingly injuring the physical well-being of an offender by beating, striking, wounding or by having sexual contact with an offender. Offender abuse is a class C felony, which carries a maximum sentence of incarceration of seven years.” It goes on to state “When any employee of the Department has reason to believe that an offender has been abused, the employee must immediately report all pertinent details in writing to the Department Director. Failure to report offender abuse is a class A misdemeanor.”

Through the tour of the facility, the auditor noticed signage in every living unit, recreation areas, dining halls, education building that stated sexual abuse is not tolerated at BCC. Signage also included ways offenders could report such abuse.

**115.11(b)** Missouri Department of Corrections (MDOC) has designated an upper-level, agency wide PREA Coordinator. The position of the PREA Coordinator is listed in the MDOC’s organizational chart and is under the department’s General Counsel. In addition, BCC has also designated the Deputy Warden of Offender Management as the PREA compliance manager (Site Coordinator). This position is also listed in the facility’s organizational chart and reports directly to the Warden of BCC. Both positions are required per policy D1-1.13, Offender Sexual Abuse and Harassment, Section III (A)(4) and (5), page 6.

**115.11(c)** N/A BCC only operates one facility.

### **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.**

115.12(a) N/A BCC does not contract with private agencies or other entities for the confinement of inmates.

115.12(b) N/A BCCC does not contract with private agencies or other entities for the confinement of inmates.

**NOTE:**

It should be that BCC’s parent agency, Missouri Department of Corrections (MDOC) does contract with private agencies and other entities for the placement of inmates.

The requirement of the parent agency to require any new contract or contract renewals with private agencies or other entities the obligation of that party to adopt and comply with the PREA Standards.

This language can be found in MDOC’s policy D1-8.13, Offender Sexual Abuse and Harassment, Section III (9), page 7, states, “All residential contractors shall adopt and comply with PREA standards as outlined in their contract with the department...” The policy also states that Chief Administrative Officer or designee shall regularly audit residential contractors to ensure compliance with the PREA standards and the department may enter into contracts with an entity that fails to comply with PREA standards only in emergency circumstances.

BCC provided an example of what MDOC sends out in their request for proposals (RFP) for residential placement. On page 11 of the RFP, “The state agency has a zero tolerance for any form of sexual misconduct to include staff/contractor/volunteer on offender or offender on offender sexual harassment, sexual assault, sexual abusive contact and consensual sex. Any contractor or contractor’s employee or agent who witnesses sexual abuse or sexual harassment must immediately report it to the Chief Operating Office of the residential facility. A contractor or contractor’s employee or agent who engages in, fails to report, or knowingly condones sexual harassment or sexual contact with or between offenders shall be grounds for canceling the contract and may subject the contractor or contractor’s employee or agent to criminal prosecution. Any contractor, contractor’s employee or agent who has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility or other institution shall be denied access into the institution.”

On page 12, the RFP also discusses PREA audit requirements, PREA reviews by MDOC, required staffing patterns as well as the requirements for specific PREA policies.

BCC provided examples of PREA audits that have been conducted at MDOC’s contracted placements (Heartland Center for Behavior Change and Metropolitan Employment and Rehabilitation Services)

**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)

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115.13(a) MDOC requires each facility it operates to 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 inmates against abuse. Policy D1-8.13 Offender Sexual Abuse and Harassment, Section III (10)(11), page 7 states, “ The department shall maintain staffing plans for each facility that provides adequate levels of staffing to protect offenders against sexual abuse. The staffing plan shall consider the facility’s physical plant to include but not limited to blind spots or areas where staff members or offenders may be isolated, the composition of the offender populations, and the prevalence of substantiated and unsubstantiated offender sexual allegations. Each facility shall comply with the staffing plan on a regular basis, deviations from the staffing plan shall be documented and justification for deviations noted.”

In 2009, the MDOC Division of Adult Institutions established Correctional Officer staffing patterns for all facilities noting minimum staffing for all posts. The Division of Adult Institutions operates with an overall ration of one officer to six offenders, (1:6). MDOC follows National Institute of Corrections suggested methods of calculating staff needs per post. The ratios of supervisory staff to corrections officer and other staff is as follows: One to seven (1:7) Sergeants to Corrections Office I and a one to three (1:3) Lieutenant to Sergeants.

Auditor reviewed a memo dated July 18, 2014 from BCC's Chief of Custody to the Warden regarding COI staffing. It reads, "BCC staff is based on the 2009 Institutional CO/I post analysis our current total authorized FTE (full time employees: CO/I's) is 162. It is imperative that we comply with the minimum number of Officers that are required to operate the facility by shift. According to the 2009 analysis, the number of Officers that are required to operate the facility by shift is; 1st shift – 23 Officers seven days a week, 2<sup>nd</sup> shift – 30 Officers seven days a week and 3<sup>rd</sup> shift – 29 officers seven days a week. These are the minimums according to the Division of Adult Institutions staffing pattern, which does not allow "extra" in case of emergency, out-counts or to assemble a five man extraction team. In order to address these needs for example on 1<sup>st</sup> shift,; the lobby officer, medical officer, the upper/lower hills Rovers and the third officer in H.U. #8 are the less essential posts. The second Officers from units 5, 6, & 15 are available for response team in an emergency, short-term use only and will require approval for Chief Administrative Officer/designee. Shift Commanders may not schedule leave or training that result in fewer than minimum number of Custody Officers required being available for shift without prior approval of the CAO...:

In regards to checking compliance with the staffing plan the warden states, "I look at the daily roster and I also walk through the facility to verify staffing levels. Our overall staffing levels are determined by Central Office. We have a formal meeting every year to discuss staff levels and PREA events. We also look to see if additional cameras are needed and where they are needed." The warden also reports there have been no judgments or legal findings made against the facility.

**115.13(b)** N/A BCC has had no circumstances where there were deviations from the staffing plan.

**115.13(c)** BCC provided a copy of a memo from Dave Dormire, Director of Division of Adult Institutions to the statewide PREA Coordinator with BCC's Chief of Custody being carbon copied. The memo, dated July 24, 2015, reads, "This is in response to the Division's compliance to PREA Standard – 115.13 Supervision and monitoring. In regard to our staffing, the division continually reviews our staff planning to provide adequate staffing levels and we currently have no significant changes. If any one of the below eleven components would change, it would trigger a review of our staffing plan. Thank you."

Policy D4-4.8, Security Camera Operations, page 5, states, "To assist in the prevention, detection and prosecution of offender sexual abuse and overall security of the facility, the CAO or designee will monitor the feasibility of placement and the need for new or additional requirements equipment. The CAO or designee will maintain a current document reflecting existing video equipment, requests for new purchases, and identified areas needing video surveillance. When debriefing critical incidents consideration shall be given as to whether security camera equipment or monitoring should be augmented to supplement supervision by staff in accordance with department procedures regarding serious incident reporting and debriefing."

Auditor reviewed meeting minutes dated July 12, 2016 for "Security Camera Review Meeting." The minutes covered the results of a "Needs Survey" sent out to the functional unit managers and the Administrative Inquiry Officer regarding areas not supported by security camera coverage which appeared to be inadequate or non-existent. Camera placement and coverage was reviewed for every housing unit. Review team also discussed the spot check of documented unannounced rounds being made by higher-level staff. The team also discussed staff levels were reported to be at 90% or above for all shifts.

Auditor reviewed BCC's calendar year 2015 annual report. This report incorporates the review PREA cases, overview of the facility's handling of PREA cases (to include any corrective action the facility implemented), evaluation of monitoring systems as well as the staffing plan.

**115.13(d)** Policy D1-8.13, Offender Sexual Abuse and Harassment, page 6, states, "Each facility shall ensure the intermediate-level or higher supervisors conduct and document unscheduled and unannounced rounds to identify and deter offender sexual abuse and sexual harassment. Each facility shall ensure that rounds occur periodically in all areas of the facility. Staff members shall be prohibited from alerting other staff members that these rounds are occurring. The rounds will be documented and readily accessible during audits as outlines in the facilities standard operating procedure."

BCC also provided copies of post orders for Shift Supervisor Captain, Administrative Program Security Lieutenant and Security Coordinator (Lieutenant). The Shift Supervisor post order states, "The shift supervisor will be responsible to assign custody supervisors (lieutenant or higher) to make unannounced rounds to all areas of the institution on an irregular basis to identify and deter sexual abuse and sexual harassment. Each tour will be documented on the PREA Checklist form specific for each shift. Rounds will be conducted at all areas offenders work or live on each shift at a minimum of once monthly. The shift supervisor for each shift will be responsible to forward the completed PREA Checklist form to the deputy warden of offender management no later than the 10<sup>th</sup> of the following month. Instances of staff alerting other

staff of the presence of a supervisor or a member of administration will be immediately reported in writing to the chief of custody and the deputy warden of offender management. The other post orders include the following statement, "Custody supervisors will be responsible to make unannounced rounds to all areas of the institution on an irregular basis to identify and deter sexual abuse and sexual harassment as directed by the shift supervisor."

Auditor reviewed the post order for Housing Unit Officers and Corrections Officer General post order. These post orders include the following statement, "Staff are strictly prohibited from alerting any other staff member to the presence of a supervisor or a member of administration."

Auditor reviewed twelve monthly "PREA Monthly Security Checklists" from 2016. These monthly logs record when supervisors conducted their unannounced rounds. The logs track the date and time of the round, the area visited, the supervisor conducting the round and their signature.

During the tour of BCC, the auditor stopped and talked to random staff in the housing units. The auditing team asked several staff members if supervisors conducted unannounced rounds. The overwhelming response from staff was "yes." They stated they document the round in their chronological log and make sure that it is in red. Staff states this makes it easier for administration when they are reviewing logs.

The auditor also interviewed a lieutenant in regards to unannounced rounds. He states, "We are required to do monthly (at a minimum) rounds at every housing unit. The rounds are logged in the housing unit logs and on our own logs." When asked how they prevent staff from alerting other staff he replied, "This is in the post orders and I would give a counseling session if someone lets it out that we are checking."

### **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)

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**115.14(a)(b)(c)** BCC had no youthful offenders on the day of the audit. There have been no youthful offenders at BCC in the past twelve months.

#### **NOTE:**

SOPD1-8.13, Offender Sexual Abuse Harassment, Section III (C)(2)(c), page 11 states, "\*\*\*\*SOP: Should BCC receive a youthful offender, the assistant warden will be immediately notified and a housing assignment will be specifically assigned to ensure the health and safety of the offender.

MDOC Policy D1-8.13 Offender Sexual Abuse and Harassment, Section III, (C)(4), page 11 states, "A youthful offender shall not be placed in a housing unit which he shall have sight, sound, or physical contact with any adult offender through use of a shared dayroom or other common space, shower area, or sleeping quarters..."

This is also required by Missouri law: Chapter 217, Department of Corrections, Section 217.345, dated August 28, 2013

### **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)

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**115.15(a)** BCC is a male only facility and does not conduct cross-gender strip or cross-gender visual body cavity searches of inmates. In the past twelve months, there has been no cross-gender strip or cross-gender visual body cavity searches of inmates.

Policy D1-8.13 Offender Sexual Abuse and Harassment, Section III (C) (7), page 14 -15 states, "Cross-gender strip searches are not allowed except in exigent circumstances. All cross-gender strip searches shall be documented as outlined in the institutional services procedure...Offenders shall be allowed to shower, perform bodily functions, and change clothing without non-medical staff of opposite gender viewing their breast, buttock, or genitalia, except in exigent circumstances, or when such viewing is incidental to routine cell checks...Staff of the opposite gender shall announce their presence prior to entering an offender housing unit...Announcements shall be recorded...If a staff member of the opposite gender is required to venture past privacy barriers, and no exigent circumstances exist, the staff shall verbally announce their presence to the offenders and allow the offenders to seek privacy from the staff..."

Policy IS20-1.3, "Searches", page 8, states, "To the extent possible, strip searches will be conducted in an area to allow privacy to the offender. Strip searches will be conducted by staff members of the same gender, except in exigent circumstances. Exigent circumstances include: time delaying a search could allow for the destruction of evidence, escape of an offender, endangerment of life, health or property of staff members, offenders, or the public, emergency movement situations (i.e., crime scene where evacuation of offenders needs to occur immediately and/or a check for weapons." Page 3 of this policy states, "Male offenders will be strip searched by male custody officers."

In the past 12 months there have been no cross-gender strip searches or cross-gender visual body cavity search. The facility did provide an example of the log that would be used if this would occur.

**115.15(b)** N/A BCC is a male only facility.

**116.15(c)** Policy IS20-1.3, "Searches," also states, "Staff members will document a cross gender strip search on the cross gender search form. The shift supervisor will make all applicable notifications in accordance with standard operating procedures and forward the cross gender search form to the PREA site coordinator and include a copy to the use of force packet if applicable. The PREA site coordinator shall review the cross gender search form. If it is determined the search was conducted under non-exigent circumstances, it will be referred for review and action as deemed appropriate. The PREA site coordinator will maintain the cross gender search form and supporting documentation as deemed appropriate."

This same policy also states, "Cross gender thorough pat searches of male offenders will only occur during exigent circumstances. These cross gender thorough pat searches will be immediately reported to the shift supervisor and the searching staff member will document the search on the cross gender search form. The shift supervisor will make all applicable notifications in accordance with SOP and forward the cross gender search form to the Prison Rape Elimination Act (PREA) site coordinator. The PREA site coordinator shall review the cross gender search form. If it is determined the search was conducted under non-exigent circumstances, it will be referred for review and action as deemed appropriate. The PREA site coordinate will maintain the cross gender search form and supporting documents for tracking purposes."

Staff was emphatic that no cross gender strip searches are allowed at this facility except in the instance of exigent circumstances. All male inmates interviewed stated they have never had a female staff member strip search them. They each verified that this was not allowed as there was plenty of male staff at the facility.

In addition, various post orders require staff assigned to be male or a percentage of staff assigned to the post be male in order to not create exigent circumstances.

**115.15(d)** Policy D4-4.8 Security Camera Operations, Section III (B), page 4 states "As authorized by the CAO, stationary security cameras should be positioned where placement will enhance security operations as to view live monitoring of visual images in areas where offenders may be located...Security cameras may be placed in restroom/shower areas when barriers or camera positioning prevents the capture of images of genitals, buttocks, or male breasts." On page 5 of this same policy it states, "The CAO will designate authorized staff to review visual images at the original source as it relates to their assigned job duties as outlined in standard operating procedures. Access to visual images and recordings should be limited in order to maintain integrity and security. Custody posts designated for the specific purpose of viewing offender confinement within living environments where use of restroom, showers, strip cells, etc., occur shall be designated as same gender posts with the approval from the appropriate deputy division director."

During the tour of the facility, auditor observed the following when it comes to inmates showering, performing bodily functions, changing clothes in privacy and cross-gender announcements:

1. **Building 10 – Work Release:** Upon entering this housing unit, the male unit officer immediately made an announcement over the intercom alerting inmates of female staff in the area. The showers and restroom are located in the basement and a male member of the auditing team entered this area. He advised appropriate coverings were in place for the showers and the toilet areas. Officer station contained a monitor to view cameras.
2. **Building 16 – Laundry:** This area contained one inmate restroom. This restroom consisted of a one toilet and a sign on the door advising inmates that only one inmate may be in the restroom at a time.
3. **Building 9 – Honor Dorm, Puppies for Parole:** This housing unit consisted of one wing (12 double occupancy cells) for the Puppies for Parole and two open bay living areas. In the double occupancy cells, all cell doors were open and toilets were located just inside the doorway (clearly visible from the hallway.) When this auditor asked several of the inmates housed in this wing about this fact, they stated that no one uses these toilets. They stated that most have coverings inside the bowl preventing the dogs from drinking out of them. At the beginning of the hallway, there is a shower area and toilets. The shower area is open and enclosed by a wall that extends up from the floor halfway to two-thirds of the way up blocking the view of any genitalia from the hallway and officer's station. There are also curtains present to allow for privacy when using the toilet. Inmates stated this where they would go to use the restroom. The showers and the toilets located in the basement of the housing unit, also had appropriate coverings and allowed for individual privacy. Again, the officer's station contained a monitor to view cameras.
4. **Building 17 – Hope Chapel:** The Chapel contained one inmate bathroom behind the officer's station. This bathroom had no door; however, there was sign outside the doorway stating that only one inmate at a time would be allowed to enter to use the facilities. This bathroom consisted of two urinals, just inside the doorway, and a toilet behind a fixed wall that allowed officers to view the inmates' feet. When this auditor interviewed the officer assigned to the Chapel, he stated that the inmates do not use the urinals; they always go behind the wall. The auditor also noted a camera positioned in the corner of the bathroom that could possibly encompass the toilet. The auditor was advised that this restroom was a "hot spot" for fights. The installation of the camera and limiting one inmate to the restroom at a time was in response to the fights.
5. **Building 7 – Shock Incarceration:** The showers and restrooms in the living unit all contained protection barriers and were in place on the day of the facility tour.
6. **Building 6 - Reception and Orientation:** This living unit consists of open bay living areas. It also contains large open showers/restroom. This area includes cameras in each corner of this area. Entrance into this area is through one door way that contains a swinging bar style" door. Monitors are located at the officer's stations for viewing. Female officers are assigned to this building and inmates interviewed stated they do announce themselves when performing security checks on the restrooms.
7. **Building 12 – Food Services/Dinning Hall:** the kitchen area had one inmate restroom that contained a protective barrier. It is also designated as restroom that only one inmate at a time is allowed to enter. In the dining hall, an inmate bathroom is located just off the area where inmates line up for meals. This restroom contained a large window in the door. If an officer was standing in the line, or inmates, they could easily see into the restroom and observe a person performing bodily functions.

**NOTE:** After this concern was brought to the attention of administration, maintenance was notified. They installed an 8 inch frosted piece of mesh covering to the window. This prevented direct viewing by anyone standing in line while allowing for security checks by officers if they suspected the safety of the inmate or facility was at risk. The auditing team viewed the result. This auditor had another member of the auditing team stand inside the restroom (near the toilet) and this auditor concluded that sufficient privacy was now in place.

8. **Building 15 – Transitional Housing Unit:** This living unit has an open bay set up, and like Building 6, has a large open shower/restroom area. This area includes cameras in each corner of this area. Entrance into this area is through one door way that contains a swinging bar style" door. Monitors are located at the officer's stations for viewing. Female officers are assigned to this building and inmates interviewed stated they do announce themselves when performing security checks on the restrooms.
9. **Building 14 – Education:** Each classroom had a single bathroom present.
10. **Building 13 – Recreation/Canteen:** While inmates are using the recreation area, they are not allowed to use the restroom that is located in the area. This restroom is locked at all times and inmate workers are the only ones allowed to use it. They must get authorization from staff and only one inmate at time is allowed. The canteen area has one offender bathroom for inmate workers only.

11. **Housing Unit 1:** Shower areas have a half wall and swinging doors to allow for privacy. A half wall to allow for privacy also protects the toilet area.
12. **Housing Unit 5:** Shower areas are located in the upper level includes toilets located behind a half wall and swinging doors in front of the shower. The shower/restroom area on the lower level has a plexi glass type wall facing the officers station which is frosted to prevent viewing from the officers' station.
13. **Building 8 – Segregation Unit:** Showers and changing areas have a curtain in place to prevent cross gender viewing. While the two man cells do have open toilets they are positioned in such a way that the officer has to have deliberate intent (outside of routine cell checks) to view them being used. It should also be noted that in this housing unit 60% of staff assigned to this post are male. If there is a strip out in the rotunda area of this unit, any female staff present must leave the area.
14. **Building 28 – Treatment Unit:** Each bay had showers and restrooms with barriers in place. Inmates assigned to the treatment unit are not allowed to be nude in bay area. Clothes must be changed in the shower/restroom to prevent cross-gender viewing.

**NOTE:** In several of the housing units cameras were found to be in the shower and toilet areas, with some cameras facing the shower stalls. The auditing team expressed concern as the live feeds of these areas were being seen by any staff member at the officer station. Live feed access was removed from the officer stations. It was then learned that the only personnel having access to the live were the Warden, Assistant Warden (both male) and the Administrative Investigative Officer who is female. This still raised a concern as the female officer had access to live feed when not investigating an incident (per her duties.) The administration were quick to address this concern and issued the following memo dated January 25, 2017: “Effective immediately live feed from bathroom areas is to be removed from Laura Friesz’ camera operations sign on. When an investigation regarding an incident that happened or may have happened in a bathroom needs review, the electronic technicians will be notified by the warden to grant access to the AIO for review and recording purposes. At the conclusion of her viewing/burning the footage for investigative purposes, the electronic technicians will be notified to remove access by the warden’s office.”

Auditor reviewed random housing logs verified that each log contained a cross gender announcement. Examples of cross gender documentation included the following language, “...PREA announcement made by COI...” or “COI...makes PREA announcement (There will be female staff on duty tonight...)”

This auditor also reviewed post orders from BCC. The post orders include this statement, “At the beginning of every shift, you will announce FEMALE STAFF WORKING IN OR VIEWING YOUR LIVING AREAS. YOU ARE TO UTILIZE PRIVACY BARRIERS WHEN NECESSARY. This announcement and the time it was made will be logged in the chronological log.”

**115.15(e)** The facility has a policy prohibiting staff from searching or physically examining transgender or intersex inmate for the sole purpose of determining the inmate’s genital status. The policy SOP D1-8.13, Offender Sexual Abuse and Harassment, Section III, (C) (7c) states, “Staff members shall not perform strip – or pat-down searches or conduct physical examination for the sole purpose of determining an offender’s genital status in accordance with the institutional services procedures regarding searches, reception and orientation, and receiving screening intake center.”

This is also prohibited in policy IS & SOP 11-34.1 Health Assessment and/or Physical Examination at Reception, page 5 and in IS & SOP 20-1.3 Searches, page 16. This policy reads, “The facility shall not search or physically examine a transgender or intersex offender for the sole purpose of determining the offender’s genital status. If the offender’s genital status is unknown, it may be determined during conversations with the offender, by reviewing medical records, or, if necessary, by learning the information as part of a broader medical examination conducted in private by the responsible physician.”

Currently BCC has one transgender housed at the facility. Staff stated they were not allowed to pat search an inmate to determine their genitalia. Intake staff stated if there was a question on the genital status of an inmate, medical would conduct the physical search.

Also in policy IS & SOP 20-1.3 Searches, page 17, it reads, “Gender Unknown Through Pat Search: At the diagnostic center, if the gender of the offender is unknown, a female staff will be assigned to perform the pat search.” On page 17 it also reads, “Transgender or Intersex Thorough Pat Search: When thorough pat searching a transgender or intersex male offender’s upper torso, male staff member will utilize the male offender search technique.”

**115.15(f)** Training requirements for cross-gender pat down searches of transgender and intersex offenders can also be found in SOP D1-8.13 Offender Sexual Abuse and Harassment, page 13. This policy states, “Staff members shall be trained in how to conduct cross-gender pat-down searches of transgender and intersex offenders in a professional and respectful manner and in the least intrusive manner possible as consistent with security needs.”

Auditor reviewed MDOC statewide lesson plan titled Institutional Searches dated October 2014. Instructions from cross-gender searches can be found on pages 13-14; the lesson plan reads, “As stated before, pat searches are preferable if conducted by same gender staff, but that is not always practical and a cross-gender search must be conducted. The cross gender search is comparable to a same gender pat search but when performed the officer will utilize the back of the hand to search the following areas: 1) chest or breast area, 2) sides, 3) armpits, 4) lower abdomen, and 5) buttocks. Please note a male officer search a female offender will only occur during an exigent circumstance. Policy IS20-1.3 states that an exigent circumstance is any set of temporary unforeseen circumstances that require immediate action in order to combat a threat to the security or institutional order of a facility.” At this point of the lesson plan, participants watch two training videos: “Thorough Female on Male” (7:40 minutes) and “Thorough Male on Female” (7:58 minutes).

Transcript for the Thorough Female on Male Pat Searches can be found on pages 16-17; the lesson plan reads, “Have the offender face you and have them open their mouth while examine it for contraband. Have the offender show you the front and back of their hands. Have the offender remove any loose braids or bunched hair and have the offender lean forward, as they run their hands/fingers through their hair for visual inspection. If the offender does not provide you with an acceptable inspection you may, with the use of protective gloves, search the offender’s hair. Have the offender show you the front and backs of their hands again; this will help prevent the movement of contraband between these areas. Have the offender turn around and approach the offender from behind, positioning yourself in a defensive stance at approximately 45 degrees angle. Instruct the offender to place their feet shoulder width or wider apart. Before you begin your search you must also remember to keep a visual on the offender and be mindful of your safety. Whenever searching an offender, no matter the gender, it is important to always be in a defensive stance and keep one hand placed on the back, shoulder or lower back of the offender. By keeping your hand on the offender you have a quicker reaction time to any sudden movements and the possibility of the offender becoming violent. Begin your search at the collar sliding the hand over the material. Using the palm of the hand, search the shoulder area and proceed along the top of the arm to the end of the shirt sleeve. Upon reaching the end of the sleeve use the back of the hand to search the underside of the arm. Slide the back of the hand along the under arm to the armpit. Using the back of the hand, slide it down to the offender’s waist. From the armpit, use the back of your hand and search down the offender’s side to the waistband. At the waistband, rotate the hand while simultaneously sliding it along the offender’s waistband until the fingers come to rest in the center of the back just above the waistband.”

#### **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.**

BCC has established procedures to provide disabled inmates and inmates with limited English proficiency equal opportunities to participate in or benefit from all aspects of the agency’s efforts to prevent, detect, and respond to sexual abuse and sexual harassment.

**115.16(a)(b)** Policy D1-8.13 Offender Sexual Abuse and Harassment, Section III (C) 6, pages 10 - 11 state “ The department shall provide PREA related education in formats accessible to all offenders including those who are limited English proficient, deaf, visually impaired, or otherwise disabled, as well as to offenders who have limited reading skills in accordance with the department’s procedures regarding deaf and hard of hearing offenders, disabled offenders, and blind and visually impaired offenders. Offenders who have limited English proficiency shall be provided a copy of the video transcript and the PREA offender brochure in their native language. If these documents are not already translated as a recognized language by the department, the department shall make reasonable accommodations to provide these documents in the offender’s native language. If the documents are unable to be translated as a recognized language the departments PREA site coordinator or designee shall utilize an interpreter to assist the offender in understanding the information provided. The PREA site coordinator shall make key information readily available or visible to all offenders through the PREA posters, the offender rulebook, and the offender brochure on sexual abuse and harassment. ”

BCC provided examples of PREA Brochures and Acknowledgement Forms in the following languages: English, Japanese, Servo Croatian, Spanish, Vietnamese, Russian, Simplified Chinese, Traditional Chinese, Large Print and Braille. PREA posters were in English and Spanish.

Transcripts of the video, “Speaking Up,” from the National Institute of Corrections are available for the hearing impaired. They are available in English and Spanish.

IS/SOP 5-1.2, “Institution Receiving and Orientation”, Section III (B)(2)(dd), pages 3 and 4 reads, “\*\*\*SOP: The Corrections Classification

Assistant (CCA) assigned to conduct PREA orientation with the offender will be responsible to identify offenders unable to understand the material normally presented. Whenever an offender needs PREA information formatted outside of the normal material provided an electronic message will be sent to the site coordinator for each instance noting the reason additional resources were needed with the name and number of the offender involved. Offenders assigned to reception and orientation will be provided PREA orientation to include the Offender Brochure on Sexual Abuse and Harassment and the PREA video the next working day following intake. Offenders assigned to segregation upon intake will be provided the Offender Brochure on Sexual Abuse and Harassment from the assigned case manager and will view the PREA video when assigned to the orientation unit prior to being placed in general population. The PREA Offender brochure is available in English, Japanese, Russian, Serbo-Croatian, Simple Chinese, Traditional Chinese, Vietnamese, Spanish, and large print via the department's PREA link. The staff overseeing orientation will make available upon request the appropriate brochure when needed.

IS/SOP 5-2.3, "Offender Internal Classification," Section III (D)(2), page 3 states, "\*\*\*\*SOP: Offenders will not be disciplined or required to answer or disclose information related to disabilities, sexual orientation, victimization or perception of vulnerability. If determined during the assessment the offender appears to be at imminent risk to be a victim of sexual abuse the FUM will be immediately notified. The FUM will meet with the offender and ensure the offender is aware of reporting victimization procedures and feels safe in his present housing and work assignment. If question #12: *"Is the offender or does the offender appear to the rater to exhibit characteristics of a Gay, Lesbian, Bisexual, Transgender, Intersex, or Gender Nonconforming individual?"* or Question #11 regarding developmental, mental, or medical disability marked yes or the offender refuses to answer question #12 the case manager will notify the PREA site coordinator by e-mail."

PREA posters were located throughout the facility in English and Spanish.

Auditor reviewed the following contracts: Sign Language Interpretive Services (3/31/2017 and Verbal Language Interpretive Services (6/30.2017).

Random staff interviews indicated that staff was aware of other staff member that could be used as interpreters. The overall consensus on using offenders as interpreters can be summed up by this quote, "Only if the safety and security of the facility was a factor."

On the day of the onsite portion of the audit there were no inmates with limited English proficiency or were hearing or visually impaired housed at BCC.

It should also be noted that as part of all institutional basic training, staff receive a two hour course on special needs offenders. This course focuses on comparing and contrasting individuals with mild or moderate intellectual disabilities, learning disabilities, and emotional problems. Staff will assess potential problems from these impairments, predict how staff might be affected and learn techniques that facilitate learning and effective communication.

**115.16(c)** Policy D5-5.1, Deaf and Hard of Hearing Offenders, reads, "The deaf or hard of hearing offender shall be offered the assistance of qualified interpreters and have other auxiliary aids expressed to them during the diagnostic process. The methods for requesting accommodations or modifications shall be reviewed with the offender. Deaf or hard of hearing offenders shall be advised of the request for reasonable accommodation from and how to obtain it. The waiver of certified and licensed interpreter will be reviewed with the offender. Medical staff shall complete the medical verification section of the request for reasonable accommodation form and consult with the caseworker and the Americans with Disabilities Act site coordinator to determine the appropriate accommodations for the offender."

The policy defines a qualified interpreter as a person certified and licensed by the Missouri Interpreter Certification System or deemed competent by the Missouri Commission for the Deaf. This policy does allow for inmates to obtain this certification. "The offender interpreters shall be educated and shall agree to keep all matters and information learned while performing interpretive services confidential. During medical and mental health evaluations, communication between patient and medical personnel is critical to the effectiveness of treatment, safety and security of the offender. Due the need to maintain confidence in medical and mental health evaluations, offenders will not normally act as sign language interpreters. As determined by attending medical staff, in cases of emergency where failure to communication would result in serious injury, illness or death, offender interpreters will be permitted."

When addressing counseling hearings the policy reads, "When either the offender or counselor seeks to discuss information that is confidential in nature, the offender may choose whether or not to use an offender interpreter."

The policy continues to read, "Qualified interpreters shall be made available for offenders who are deaf or hard of hearing and use sign language under the following circumstances...formal investigations conducted by the department staff to include PREA related claims..." In addition, it reads, "Staff shall work with the deaf and hard of hearing offender to determine the best means of communication that will be most effective in gathering accurate information."

It should also be noted that listed in the BCC's Coordinated Response is the following statement, "If an offender interpreter is utilized during this exigent circumstance, the shift commander will note such on the Notification Checklist. NOTE: No inmate interpreters have been used in this type of circumstance."

## 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.**

BCC has several policies in place that prohibits hiring or promoting anyone who may have contact with inmates and prohibits enlisting the services of any contractor, volunteer, or intern who has engaged in sexual abuse of an inmate.

**115.17(a)** Policy D1-8.13 Offender Sexual Abuse and Harassment, Section III (B), pages 7 – 8 states, “Department staff members shall not hire or promote any person, employee, or enlist the services of any contractor that may have contact with an offender when it is known that he has engaged in sexual abuse with an offender...”

A blank copy of the application for employment for BCC was provided to the audit team. The audit team was able to locate these three questions:

- While working or volunteering at this facility, were you terminated or otherwise disciplined or counseled for sexual contact with or sexual harassment of an inmate, detainee or resident of the facility?
- Have you pled guilty to or been found guilty of engaging in sexual activity or attempting sexual activity involving force or inflicted upon a person unable to give consent?
- Have you been found to have engaged in sexual activity or attempted sexual activity involving force or inflicted upon a person unable to consent, by a civil or administrative body? This includes actions taken upon a professional license or a professional registry and any internal administrative investigation results.

BCC provided documentation of background checks done on new hires and those employees up for promotion. Documentation was also provided showing previous employers were contacted regarding incidents of previous sexual abuse an sexual harassment of incarcerated individuals.

**115.17(b)** Policy D1-8.13 Offender Sexual Abuse and Harassment further states, “Department staff members shall consider any incidents of sexual harassment in determining whether to hire or promote any person or enlist the services of any contractor...”

The human resource indicated that questions asking if applicants have ever worked in a facility governed by PREA include questions on sexual harassment. If they indicate “yes” on the application, it is investigated.

On the copy of the blank application (appendix 1) given to the audit team it reads, “Effective August 2013, the Department of Corrections must be compliance with final standards implementing the Prison Rape Elimination Act (PREA), issued by the U. S. Department of Justice. The following questions are being asked of all applicants who may have contact with offenders as part of their regular job or volunteer duties.” (The questions listed are sited under documentation for 115.17(a).)

**115.17(c)** Policy D1-8.13, Offender Sexual Abuse and Harassment, also states, “Before hiring new employees the human resources staff members or designee shall perform a criminal background records check and contact all prior institutional employers when possible, for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse...”

The following hiring policies also have a PREA component: D2-2.1, Selection Procedure – Merit Appointments, page 8; D2-2.2 Background Investigations, pages 2, 4, 5; D2-2.8 Promotional Appointment, page 3; D2-2.10 Re-Employment Appointment, page 3; D2-13.1 Volunteers, page 6; D2-13.2 Student Interns, page 4. Each of these policies has the following statement, “A background investigation shall be conducted in accordance with the department procedure regarding background investigations.”

The human resource at BCC states that criminal background checks are done for all newly hired and returning employees.

**115.17(d)** D2-2.2, Background Investigations, defines a staff person as any person who is employed by the department on a classified or PREA Audit Report

unclassified basis (permanent, temporary, part-time, hourly, per diem) and are paid by the State of Missouri's payroll system; contracted to perform services on a recurring basis within a department facility (such as medical services, mental health services, education services, vocational services, substance abuse services, etc.) pursuant to a contractual agreement and has been issued a permanent department identification card; a volunteer in corrections; a student intern; or issued a permanent departmental identification or special access card or special access in accordance with department procedure regarding staff identification."

The facility's human resources reported background checks are done for newly hired and returning employees, contractors. She states the facility uses the Highway Patrol's System as well as MULES to conduct criminal record checks. She also states that employees have a duty to report any arrests. When it comes to reporting information on former employees who apply to work at other institutions, she states, "This is done through Central Office. They can look in the COIN system to see if this information exists."

**115.17(e)** D2-11.14 Annual Employment Requirements reads, "Each calendar year, in the month following each staff member's birth month, specific employment requirements verifications should be conducted; a criminal history check shall be conducted to include outstanding warrants..." The policy goes on to read, "Criminal history checks will be conducted and will consist of a query through the Missouri Uniform Law Enforcement System (MULES), and the National Criminal Information Center (NCIC) system. Staff members conducting the Missouri Uniform Law Enforcement System and National Criminal Information Center checks will document the name and title of the requestor and the reason for the request on the criminal history record log/printout. When adverse findings are not, the CAO will be notified and copied on the criminal history printout."

Policy D2-2.2 Background Investigations reads, "A check will be conducted on the active employee through Central Office Human Resources to inquire if there has been any formal discipline for substantiated allegation(s) of sexual abuse and/or harassment of an offender or resident. All sustained allegations will be considered by the department before an employee is considered for other appointments."

**115.17(f)** The auditor also reviewed the employee handbook. On page 18, "Employee Conduct – Reporting Criminal Misconduct (Arrest)" states, "Employees who are arrested or charged with a criminal offense must immediately notify the chief administrative officer or highest ranking staff member available. In this context, immediate means as soon as possible but no later than the beginning of the next shift worked by the employee. Employees are required to report arrests and charges for all felonies and any misdemeanor, except a minor traffic violation."

The human resources stated that it specifically listed on their applications that all arrests are to be reported to the facility.

**115.17(g)** On page 45 of the employee handbook, "Employee Discipline," it states, "Appointing authorities of the Department are authorized by state law to discipline employees. Disciplinary action may consist of a written reprimand, suspension, demotion, or dismissal. The appointing authority may discipline an employee based upon unsatisfactory performance of job duties or misconduct...In addition to these actions while on duty, an appointing authority may discipline an employee for off duty misconduct, especially misconduct that is unprofessional or criminal. Employees who have been charged with a criminal offense may be suspended while the charge is pending."

**115.17(h)** Policy D2-5.1 "Maintenance of Employee Records", page 7, Section (III)(K)(3) states, "A verification of information, other than public information, will be made with a written authorization from the employee. Verification may include inquiries from prospective institutional employers pertaining to sustained allegations of sexual abuse and/or harassment of an offender or resident during employment by the department. Such information will be obtained by contracting central office human resources."

### **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.**

**115.18(a)** N/A BCC has not acquired a new facility or made a substantial expansion to the existing facility since August 20, 2012. BCC last PREA audit was December 14, 2014.

**115.18(b)** BCC has installed and updated their video monitoring system, electronic surveillance system, or other monitoring technology since August 20, 2012. BCC's last PREA audit was December 14, 2014.

PREA Annual Report Protocol "At least once a year, the facility must evaluate their need for additional cameras and monitoring systems."

Auditor reviewed Security Camera Review Meeting minutes dated July 12, 2016. This meeting covered the review of a needs assessment that had been sent out to the functional unit managers and the Administrative Inquiry Officer regarding areas not supported by security camera coverage with appeared to be inadequate or non-existent.

BCC reported, "BCC has over 600 cameras to assist with monitoring of the current offender population. A review of all cameras was conducted. To meet PREA standards, bathroom and shower areas were removed from the monitors due to gender diversity of the staff. As a result, cameras in areas accessible by offenders ie: housing unit officer's desk, chapel, etc. had the live feed removed from those monitors. Those areas can only be viewed remotely by shift supervisors, administration and the investigator. Housing Unit one thru four: half doors were installed on the shower areas. Housing Unit five: the windows looking into bathroom are etched for distortion. Education: Top panel of the bathroom door changed to expanded metal for visibility. Bottom panels remain solid per PREA standards. Housing unit fifteen: camera was repositioned away from toilets. Food Service offender bathroom: camera was moved from direct view of toilet. Visiting room: strip search room; cameras were repositioned. Housing Unit #8 (segregation); cameras remained in place in the suicide cells for offender safety. Post order will reflect female staff will not be assigned to the bubble when an offender is assigned to suicide cell. An annual evaluation of cameras will be conducted every year in June. Major has indicated that a monitor room post should be created where all cameras will be monitored around the clock. This would be a gender specific post and would require FTE. This observation has been discussed among the administrative staff, however due to minimal assaults and/or PREA events and budget concerns; no request for purchase has been made at this time. This will be an agenda item for the next Major's meeting."

While touring the BCC it was noted that the facility had excellent camera coverage. Camera placement along with direct supervision of the staff reduced blind spots and enhanced the safety of the offenders housed at this facility.

#### **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.**

BCC is responsible for conducting administrative and criminal sexual abuse investigations (including inmate-on-inmate sexual abuse or staff sexual misconduct). Investigations conducted at BCC follow a uniform evidence protocol. This protocol is also developmentally appropriate for youth.

Forensic medical exams are offered without financial cost to victims. All exams, where possible, are conducted by Sexual Assault Forensic Examiners or Sexual Assault Nurse Examiners. If they are not available qualified medical professionals conduct the exams.

Qualified Staff trained as victim advocates are made available to all victims.

**115.21(a)** Auditor reviewed BCC's "Evidence Procedure Manual." Evidence collection is based on nationally recognized protocols for collection and preservation of evidence as discussed in the "A National Protocol for Sexual Assault Medical Forensic Examinations." The State PREA Coordinator reports, "We didn't use a specific source; we follow the national standards based on training received."

Corizon Health is responsible for providing all medical and mental health services to offenders placed in the custody of MDOC. They are responsible for conducting initial medical exams on all sexual abuse cases. Auditor reviewed the contractual requirements MDOC has with Corizon. On pages 42 and 43 of the contractual requirements, it reads "Corizon will comply with the Prison Rape Elimination Act of 2012 and will follow and enforce the MDOC's D1-8.14 Offender Sexual Abuse and Harassment policy with the assurance that access to medical and behavioral health care will be provided immediately, upon report or discovery, to victims of sexual misconduct. Corizon's medical and

behavioral health care staff will contribute to a coordinated response to all allegations of sexual abuse by relaying, to the designated MDOC administrative staff, information pertinent to the well-being of the offender(s) of for investigative purposes. Offenders who report sexual assault will be treated for immediate stabilizing healthcare needs onsite and then transferred to an offsite hospital emergency room/SANE/SAFE provider for forensic evaluation and treatment. Corizon has contracts and access through HealthLink for accessing SANE/SAFE providers. Appropriate follow-up for prophylactic treatment and referral to mental health staff will be completed upon return from the crises center.”

During the interviews of random staff all stated they would secure and separate the offenders. They explained they would not allow anyone to shower, get a drink or change clothes. They stated they would secure the scene and notify their supervisor. While some of the staff was not sure who was responsible for conducting the sexual abuse investigations, they all knew their role in preserving evidence.

**115.21(b)** Evidence collection is based on nationally recognized protocols for collection and preservation of evidence as discussed in the “A National Protocol for Sexual Assault Medical Forensic Examinations.” The State PREA Coordinator reports, “We didn’t use a specific source; we follow the national standards based on training received.” The State Coordinator also reports this protocol is appropriate for youth.

**115.21(c)** Policy D1-8.13 Offender Sexual Abuse and Harassment, Section III (G) Health Services Care, pages 17 – 20, states “Victims of sexual abuse shall receive timely, unobstructed access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by health services practitioners according to their professional judgment. When conducting a medical assessment of any victim or alleged or suspected perpetrator of an incident of sexual abuse or sexual harassment health services staff members may not collect evidence but shall assist in the preservation of items related to the incident. Health services staff members should screen victims for obvious physical trauma, and at that time provide emergency medical care. If an allegation of offender sexual abuse is made within 72 hours of the event and consists of penetration of the mouth, anus, buttocks or vulva, of any kind, however, slight, by hand finger, object instrument or penis, the victim should be transported to the community emergency room with a sexual assault forensic examiner (SAFE) or sexual assault nurse examiner (SANE), when possible, for gathering of evidence. If it has been greater than 72 hours since the alleged abuse, and the alleged victim has not showered, they should be transported to the community emergency room with a sexual assault forensic examiner (SAFE) or sexual assault nurse examiner (SANE), when possible for gathering of evidence. Health services staff members should contact the shift commander and the community emergency room to arrange transportation to the emergency room in accordance with institutional services procedures regarding offender transportation, hospital and specialized ambulatory care. If the victim has showered and it has been more than 72 hours since the reported assault, the physician should determine treatment and whether or not the victim will be sent off site for a forensic exam. For investigative purposes, the investigator may choose to have the victim sent out for a forensic exam.”

Corizon has trained several of their nurses to conduct SANE exams in specific regions of Missouri. To date Corizon has 32 certified SANE nurses – BCC has one of these nurse assigned to the facility. The auditor reviewed the following information from the SANE Planning and Implementation Team Report:

“ The SANE Planning and Implementation Team was impaneled to ensure the agency’s coordinated response to sexual abuse is revised, staff from all divisions are aware of their role and responsibility when responding to allegations of sexual abuse and that the SANE protocol is successfully implemented in prisons across the state.

**SANE Nurses:**

- Corizon will maintain a list of SANE nurses by region: Northwest, Central and Southeast. The PREA Unit will post the most recent listing on the PREA intranet page and email the list to the facilities.
- All SANE nurses will be issued a “Special Access” identification to alert security staff that the nurse as been approved for work at multiple prisons.
- When arriving at a prison to conduct a forensic exam, the SANE will have a clear tote which contains materials necessary to conduct the forensic exam. The tote will have a laminated list of its contents on the top of the tote. The PREA Unit will post the most current list of the SANE tote contents on the PREA intranet page and email the list to the facility.
- Consent from the victim is required to conduct a forensic exam. If the victim does not consent to the exam, the victim will receive be offered medical, mental health and advocacy services. The investigation will proceed.
- The SANE will conduct the forensic exam which includes details of the abuse, digital photographs of any injuries noted during the exam, collections of biological evidence utilizing a sexual assault evident collection kit and the completion of the State of Missouri’s Sexual Assault Forensic Examination Program Report.
- It should be noted, that SANE Nurses will only collect forensic evidence from victims. Evidence from a perpetrator will be collected by the Office of the Inspector Gender by consent or court order.
- In the unlikelihood that a staff person is the perpetrator, the victim will be transported to a community hospital for the forensic exam.

**Forensic Exams and Security:**

- If a victim is escorted to medical in handcuffs, the handcuffs will be removed unless the victim’s behavior appears to present a safety concern for medical staff. In such a case, the shift commander has the discretion to require the offender to remain in cuffs

during the procedure.

- Privacy screens will be utilized during the forensic exam. The screen will afford the victim a degree of privacy while still allowing officer to hear and provide security during the procedure.

**Flow of events:**

- An offender makes an allegation of penetration.
- The shift commander is immediately notified and the coordinated response is initiated. Shift commander notifies the following staff by phone: CAO of the facility, CO Duty Officer, Investigator and PREA Site Coordinator.
- The offender is escorted to medical.
- If the event is alleged to have occurred within 120 hours, the offender has not showered or a forensic exam is otherwise indicated, the SANE protocol will be initiated.
- Medical will ensure the on call SANE nurse is notified and request the nurse's ETA. The SANE is required by policy to report to the facility within 3 hours of notification.
- Medical will communicate with the shift commander the name of the SANE nurse and the nurse's ETA.
- Shift Commander will notify the investigator, mental health staff and the advocate of the ETA of the SANE nurse.
- Where applicable, the community advocate will be notified. If the community advocate is unavailable, the chaplain on rotation will be call to report to the facility.
- The advocate will provide support to the offender prior to the forensic exam and during if requested.
- The investigator will conduct a brief fact gathering interview with the victim prior to the exam.
- Following the forensic exam, the victim will be assessed by mental health.
- The SANE nurse will give the camera to the investigator who will transfer the photos taken of the injuries noted during the exam to DVDs for the medical file and the investigative file.
- The SANE nurse will provide the investigator copies of all reports completed during the exam."

Effective September 1, 2016, cases involving the need for a forensic exam will no longer be out counted. In the past 12 months, no SANE exams have been conducted for BCC.

Beginning September 1, 2016, allegations of offender-on-offender penetration that require a forensic exam will be conducted in the facility. In the unlikelyhood that a staff person is the perpetrator or the victim has sustained significant injuries that require emergency care, the victim will be transported to a community hospital for the forensic exam. BCC Will utilize the University of Missouri hospital in Columbia, MO.

**115.21(d)(e)** In addition, policy D1-8.13, "Offender Sexual Abuse and Harassment," Section III (K) page 20, addresses Advocacy. It states, "Each facility shall offer victims of offender sexual abuse, not including sexual harassment, a victim advocate to provide emotional support services, crisis intervention and be available during the investigative process. Each facility shall attempt to enter into a memorandum of understanding with a rape crisis center to provide advocacy services in accordance with the department's procedure regarding professional and general services contracts. If a facility is unable to enter into a memorandum of understanding with the advocacy center, the attempt shall be documented and advocacy services shall be sought from a community based organization qualified to provide such services. When the facility cannot successfully enter into a memorandum of understanding with an outside community service provider for offender victim advocacy services, a qualified staff victim advocate shall be provided. All staff members serving as a designated victim advocate for offenders shall receive victim advocacy training for sexual assault advocates. All services provided by staff victim advocates to offender victims shall be afforded a level of confidentiality consistent with the safety and security of the institution. The PREA site coordinator or designee shall serve as the liaison between the facility and the advocacy organization. The PREA site coordinator or designee shall ensure the continuity of advocacy services in the event the victim is transferred while receiving services."

BCC has attempted to contract with a local community advocate True North. Auditor reviewed an email dated October 23, 2014 from True North which states, "Per your request, I am sending you an acknowledgement that you met with True North staff several times in mid-2013. We discussed the possibility of signing an MOU and had a preliminary discussion on the protocols such an MOU would encompass. We had, in fact, gotten far enough along in our discussions that a tentative MOU was drafted (see email below). After meeting with our funders, however, we discovered a conflict with two of our major funding sources. We were, therefore, unable to accept the MOU or participate in your program at that time. Several months after the meeting mentioned below, I did attend an informational meeting set up by the Missouri Coalition Against Domestic Violence and Sexual Assault and facilitated by your staff. Again, we hoped we would be able to participate but were unable to do so due to funder requirements and financial restrictions. Thank you for taking the time to make sure we thoroughly understood the issues you face and the services you were requesting. I trust this communication will provide sufficient documentation that, indeed, you made significant attempts to involve our agency in PREA but we were, regrettably, unable to participate. Thank you." Due to BCC being unable to form collaborative partnership with this community provider, Chaplains at the facility have been trained by the Missouri Coalition against Domestic and Sexual Violence to be qualified staff advocates. (Auditor reviewed curriculum used to train Chaplains.) Facility also has established a PREA Advocate Availability Rotation Schedule.

During the tour of BCC information about outside emotional support services, such as Just Detention International, was posted throughout the facility.

Most of the inmates interviewed stated they were not aware they could have access to an advocate if a PREA allegation was reported.

**RECOMMENDATIONS:** It is recommended that offenders are re-educated about emotional support services available at the facility. One way this can be done is during meetings between offenders and their case managers. Case managers can have this information readily available in their offices if they receive a report that sexual abuse has occurred.

The audit did review a blank “Consent for Facility Advocacy Services.” Auditor also reviewed notes from a Chaplain acting as an advocate. These notes indicate the Chaplain outline what he could and could not do as an advocate and that he did sit in on the investigatory interview.

**115.21(f)** The Inspector General’s Office conducts all criminal investigations for the MDOC. Each facility has investigators assigned to them. BCC currently has two investigators. BCC is responsible for administrative investigations.

### **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.**

The agency ensures that administrative or criminal investigations are completed on all allegations of sexual abuse and sexual harassment. All allegations of sexual abuse or sexual harassment are referred to the Inspector General for review. They determine if a criminal investigation is to be opened. If they do not open a criminal investigation, the warden then refers the case for administrative investigation.

**115.22(a)** Policy D1-8.13 Offender Sexual Abuse and Harassment, Section III (H) Investigations, page 20-21, states, “The department shall ensure that an administrative and/or criminal investigation is completed for all allegations of sexual abuse and sexual harassment and all referrals for such allegations shall be documented in accordance with the coordinated response to offender sexual abuse located on the department’s intranet website...”

See also policy D1-8.4 Administrative Inquiries, page 6, reads “The offender sexual abuse coordinated response will be initiated on all allegations of offender sexual abuse or harassment, including anonymous and third party allegations, in accordance with the department’s procedure regarding offender sexual abuse and harassment...Allegations of category II or III behaviors will be processed in accordance with the department procedure regarding the investigation unit responsibilities and actions. Allegations of offender abuse related to pat searches will be handled in accordance with the PREA coordinated response protocol. The office of inspector general may conduct investigations associated with pat searches depending on the nature of the allegation.”

During the past twelve months, BCC received a total of 28 allegations of sexual abuse and sexual harassment. Of these cases 10 resulted in administrative investigations and 6 were referred for criminal investigations.

**115.22(b)** Policy D1-8.1 Investigation Unit Responsibilities and Actions define offenders’ sexual harassment by a staff member and staff member sexual misconduct. On page 7 of this policy it reads, “The facility shall report all allegations of sexual abuse, including third-party and anonymous reports, in accordance with the department procedure addressing offender sexual abuse and harassment. If the department receives notification from another agency that an offender alleges to be a victim of sexual abuse or harassment while incarcerated in the department, an investigation or inquiry may be conducted in accordance with investigation unit responsibilities and actions or administrative inquiries procedures.”

**115.22(c)** Policy D1-8.13 Offender Sexual Abuse and Harassment can be found on MDOC website at <http://doc.mo.gov/OD/PREA/php>

### **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.**

BCC trains all employees who have contact with inmates on the 10 elements identified in this standard.

**115.31(a)** Policy D1-8.13 Offender Sexual Abuse and Harassment, Section III (B) (4), page 8, covers training requirements for new staff, current staff, part-time employees, volunteers, contract staff members and vendors. “All staff members shall receive initial PREA training during the department’s basic training. All staff members shall complete refresher training every two years to ensure knowledge of the agency’s current sexual abuse and sexual harassment procedures. Years, in which an employee does not receive training, the department’s PREA coordinator shall provide current information on sexual abuse and sexual harassment policies. Part-time employees, volunteers and contract staff members shall receive PREA specific training to their classification as determined by the appropriate division director and chief of staff training. Vendor contractors shall be escorted by a staff member at all times or shall receive PRA training prior to entering the facility. Contracted residential facilities shall ensure all staff are trained on PREA as outlined in the residential contract. Work release supervisors shall receive specific PREA training during their offender work release procedure training.”

Auditor reviewed the following curriculum: Basic Training, dated November 2013; and PREA 2014 Refresher Training. Both the Basic Training and the Refresher Training curriculum contained the 10 elements required in this standard.

All staff interviewed during this audit was able to describe major portions of the training they received on PREA.

**115.31(b)** Policy D1-8.13 Offender Sexual Abuse and Harassment also reads, “All new staff member who shall be placed at a male facility will receive Working with the Female Offender training prior to being placed on post. A staff member shall receive additional training if they are reassigned from a facility that houses only male offender to a facility that houses only female offenders. A staff member shall receive additional training if they are from a facility that houses only female offenders to a facility that houses only male offenders if their basic training or institutional training occurred more than two years prior to the time of assignment.”

Policy D2-2.13 Transfer of Employees (E), page 6, covers training requirements for staff that transfer between facilities.

**115.31(c)** Policy D1-8.13, Offender Sexual Abuse and Harassment, Section III (B) (4) reads, “All staff members shall complete refresher training every two years to ensure knowledge of the agency’s current sexual abuse and sexual harassment procedures. Years, in which an employee does not receive training, the department’s PREA coordinator shall provide current information on sexual abuse and sexual harassment policies.” From January 2012 to December 2013, 440 BCC employees and contractors have received the PREA Refresher Training. From January 2015 to March 2016, 507 BCC employees and contractors have received the PREA Refresher Training.

Auditor was also advised, “The department utilizes several avenues to ensure staff are kept informed about sexual abuse policies and practices between trainings. The department’s policy and procedure unit is responsible for forwarding all new and revised policies to all staff. MDOC ensures the PREA intranet page is kept up to date. This page is readily available to all staff and contains all things PREA.” (Auditor was provided an example of what this page looks like.)

**115.31(d)** Policy D1-8.13, Offender Sexual Abuse and Harassment, reads, “All completed PREA trainings shall require a PREA Acknowledgement form or PREA basic training acknowledgement form stating the staff member understood and completed the training. This form shall be routed through the facility-training officer or regional training coordinator. The facility training officer or regional training coordinator shall send the original PREA acknowledgement form to the central office human resources personnel for retaining in the employee’s personnel file...”

**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.**

All volunteers and contractors who have contact with inmates have been trained on their responsibilities under the agency’s policies and procedures regarding sexual abuse/harassment prevention, detection, and response.

**115.32(a)(b)** Policy D1-8.13, Offender Sexual Abuse and Harassment, reads, “Part-time employees, volunteers and contract staff members shall receive PREA specific training to their classification as determined by the appropriate division director and chief of staff training. Vendor contractors shall be escorted by a staff member at all times or shall receive PRA training prior to entering the facility. Contracted residential facilities shall ensure all staff are trained on PREA as outlined in the residential contract. Work release supervisors shall receive specific PREA training during their offender work release procedure training.”

Auditor reviewed the following curriculums:

- PREA Basic (This is the same training that all staff receive.)
- Volunteers in Corrections Basic Training (6 hour course)
  - This course teaches volunteers to identify the characteristics of a PREA victims and perpetrator and how discrimination and harassment may affect the workplace.
  - From January 1, 2015 – December 31, 2015, 15 volunteers received this training.
- Offenders Work Release Supervisor Training (5 hour course)
  - This course teaches signs of offender sexual abuse and to identify appropriate responses to be taken by staff when there is an allegation of sexual abuse. In March 2016, 26 participants completed this course and the auditor found signed acknowledgments for every participant.
- The Profession of Corrections and PREA (2 hour course)

While interviewing contract staff, they reported they receive PREA training from the facility.

**115.32(c)** Auditor reviewed random acknowledgements of receiving and understanding the Annual PREA Refresher from records maintained by BCC. The auditor reviewed eight random acknowledgements signed by Corizon staff and three acknowledgements signed by work-release staff.

**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.**

BCC provides information to inmates at the time of intake about the zero-tolerance policy and how to report incidents or suspicions of sexual abuse and harassment.

**115.33(a)** Memo from Director of Division of Adult Institutions, dated 4/11/2012 to all Wardens discussed PREA – Offender Education. This memo stated that “Speaking Up” video must be shown during formal orientation at all Reception and Diagnostic Facilities and again when they arrive at mainline facilities. They must also receive the PREA brochure “Offenders Sexual Abuse: What you need to know.”

Auditor toured the BCC intake area was taken through the intake process. Intake staff stated that PREA information is provided to all offenders on the day they arrive at BCC even though they have up to 72 hours. They do not leave intake without watching the PREA video. They are also given a brochure at this time.

When talking with inmates at BCC, all stated they watched the PREA video and received PREA information upon arrival. They could not remember exactly what it was; however, they do remember talking about PREA.

From November 2015 to November 2016, 2,156 offender have been received at BCC and received PREA education material.

115.33(b) Policy IS/SOP 5-1.2, Institution Receiving and Orientation, page 4, states, “\*\*\*SOP: The Corrections Classification Assistant (CCA) assigned to conduct PREA orientation with the offender will be responsible to identify offenders unable to understand the material normally presented. Whenever an offender needs PREA information formatted outside of the normal material provided an electronic message will be sent to the site coordinator for each instance noting the reason additional resources were needed with the name and number of the offender involved. Offenders assigned to reception and orientation will be provided PREA orientation to include the Offender Brochure on Sexual Abuse and Harassment and the PREA video the next working day following intake. Offenders assigned to segregation upon intake will be provided the Offender Brochure on Sexual Abuse and Harassment from the assigned case manager and will view the PREA video when assigned to the orientation unit prior to being placed in general population. The PREA Offender brochure is available in English, Japanese, Russian, Serbo-Croatian, Simple Chinese, Traditional Chinese, Vietnamese, Spanish, and large print via the department’s PREA link. The staff overseeing orientation will make available upon request the appropriate brochure when needed. ee). Crime tips and PREA hotline information, ff). information regarding the probability of staff members of opposite gender being present in the living areas at all times. Offenders should utilize barriers and cover themselves accordingly in common areas...”

BCC also provided examples of chronological notes in the inmate’s file indicating when this education was provided. Auditor also reviewed eight signed inmate acknowledgments.

**115.33(c)** Auditor reviewed an email sent out to all Site Coordinators from the Statewide PREA Coordinator on August 12, 2013. This email contained the following directive: “Don’t forget that sometime between August 8 and August 13, every offender in your facility must receive a PREA brochure and sign the acknowledgement form. I have attached the memo that you received during the meeting that will outline how to order additional brochures or acknowledgment form. Also...we learned during the DAI meeting that everything can be purchased with canteen funds.”

**115.33(d)(f)** Policy D1-8.13 Offender Sexual Abuse and Harassment Section III (C) 6, page 12, discusses Offender Education must be provided in the native language of the inmate and in formats that deaf, visually impaired or otherwise, can understand. It also states, “Offenders who have limited English proficiency shall be provided a copy of the video transcript and the PREA offender brochure in their native language. If these documents are not already translated as a recognized language by the department, the department shall make reasonable accommodations to provide these documents in the offender's native language. If the documents are unable to be translated in the offender's native language the department's PREA site coordinator or designee shall work with additional staff to assist the offender in understanding the information provided. The PREA site coordinator shall make key information readily available or visible to all offenders through the PREA posters, the offender rulebook and the offender brochure on sexual abuse and harassment in accordance with the institutional services procedure regarding diagnostic center reception and orientation.”

BCC provided examples of PREA brochures and posters in the following languages: English, Japanese, Serbo Croatian, Spanish, Vietnamese, Russian, Simplified Chinese and Traditional Chinese. Brochures are also available in large print and braille. There are also written transcripts of the video “Speaking Up for Female Offenders” in English and in Spanish.

Throughout the tour the audit team viewed PREA informational posters in all living units and other areas inmates gathered. These posters were in English and Spanish.

**115.33(e)** Auditor reviewed twelve random inmate acknowledgement forms from August 2015 to February 2016. Auditor also reviewed information placed on BCC inmate television outlining the zero tolerance policy and how to report a PREA allegation or concern.

### 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.**

BCC requires that investigators are trained in conducting sexual abuse investigations in confinement settings. Agency maintains documentation of such training.

**115.34(a)** Policy D1-8.13 Offender Sexual Abuse and Harassment, Section III (B) (5), page 8, states, “All new investigators and administrative inquiry officers (AIOs) or designee assigned to investigate sexual abuse allegations shall receive specialized PREA Training by the designated inspector general’s office staff members.”

**115.34(b)** Auditor reviewed the curriculum “Investigating Offender Sexual Abuse in Confinement Settings,” 36 hour course designed for Inspector General staff and Investigators. This curriculum was last revised September 24, 2012 and covered the following topics:

- Techniques for interviewing sexual abuse victims (Module 4 “Investigating Allegations of Sexual Abuse,” pages 12 – 16)
- Proper use of Miranda and Garrity (Module 2 “State Laws and Policies” pages 22 – 26)
- Criteria and evidence required to substantiate a case for administrative or prosecution referral (Module 4 “Investigating Allegations of Sexual Abuse” page 8 -11 and pages 18 -30)

This training curriculum also included a module titled “Mock Crime Scene Investigations” wherein participants took what they learned in previous modules and applied it a practice setting.

**115.34(c)** The auditor reviewed training logs from January 2013 through September 2014 and found that 56 investigators had been trained statewide. The Investigators also signed acknowledgments stating they received and understood this training. This training roster included the investigators assigned to BCC.

### 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.**

BCC has a policy related to training of medical and mental health practitioners who work regularly on its grounds. They **do not** provide forensic examinations. Regional SANE nurses provide forensic exams from Corizon.

**115.35(a)** Policy D1-8.13 Offender Sexual Abuse and Harassment, Section III (B) page 9, states, “Medical and mental health staff members shall receive annual specialized PREA training.”

Auditor reviewed curriculum “PREA Specialized Medical/Mental Health Professionals” dated September 2012. This course is worth four

hours and covers the following topics:

- How to detect and assess signs of sexual abuse and sexual harassment (pages 17 – 19)
- How to preserve and physical evidence of sexual abuse (pages 20 -22)
- How to respond effectively and professionally to victims of sexual abuse (page 23)
- How to and whom to report allegations and suspicions (page 15 – also addresses mandated reporting)

During this training, participants also viewed an eleven minute film titled “Maintaining Professional Relationships with Offender.” After viewing this film, participants were required to sign an acknowledgement form stating they viewed and understood the film.

**115.35(b)** N/A The medical staff at the facility to not conduct forensic exams.

**115.35(c)(d)** Auditor reviewed training information that 26 medical and mental health employees received a PREA refresher. Medical/Mental Health Staff states their staff is required to attend the CORE training provided by the facility. Staff interviewed articulated what was provided in training and were able to discuss their responsibility as mandated reporters. Each staff member interviewed was able to explain BCC’s coordinated response.

### **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.**

BCC has policy that addresses risk assessment screening upon admission to their facility as well as addresses reassessment requirements.

**115.41(a)(b)** Policy D1-8.13 Offender Sexual Abuse and Harassment, Section III (C), pages 10 -11, states “Facilities shall assess offenders for the risk of being sexually abused and the risk of being sexually abusive utilizing their divisional adult internal risk assessment in accordance with the institutional services procedure...Offenders shall be assessed within 72 hours of arrival. Offenders shall be reassessed within 30 days of arrival.”

The time frame for administering the Internal Risk Assessment is also found in IS & SOP version of 5-2.3, Offender Internal Classification. On page 3, Section C (1), states, “Once an offender is received at the reception and diagnostic center, staff members will have seventy-two hours to complete an internal classification. In this same policy on page 4 in Section D (2) states, “CCM’s will conduct a new internal classification within 72 hours at that facility and the offender will be housed in accordance with their new internal classification score.”

Intake staff advised that the risk assessment tool is given to all arrivals within 72 hours, unless they sign the refuse to participate form. Intake staff also report that these inmates are also reassessed at the 30 day mark to see if any changes have occurred. (Auditor did reviewed an example of “Refusal to Participate” form that inmates can sign if the refuse to participate in the risk assessment. Inmates are also told that no sanctions will be given for refusal to participate.)

Inmates that were interviewed states they remembered being asked a “bunch of questions” at when they were at intake. They reported they were asked about prior sexual abuse, if they had ever been incarcerated before and if they were gay or bisexual

There were 2,157 inmates entering BCC within the past 12 months were screened for risk of sexual victimization or risk of sexually abusing other inmates within 72 hours of their entry into the facility. All assessments were completed in a timely manner and according to standards.

**115.41(c)(d)(e)** Auditor reviewed BCC’s risk screening tool and found all 10 elements in this standard were covered. Auditor also reviewed random assessments and found that they were completed within 72 hours of intake and also conducted another random sample of 30 day reassessments and found they were completed within the required time frame. This tool has been adopted by MDOC and is used in all of their state operated facilities.

Auditor also reviewed the “The Adult Internal Risk Assessment Manual” which contained relevant information on how to complete the internal risk assessment. For example this manual contained information found in agency policy for example information on reassessment requirements can be found on page 8 and on page 9 a user can find information on how to interview an offender to obtain the information necessary to accurately completing the assessment. The manual was well laid out, provided explicit instructions on how to score the assessment and included screen prints on how to enter the assessment into the facility’s database.

All offenders are assigned one of the three following scores:

- Alpha – high potential for sexual perpetration
- Kappa – not a high risk for either sexual victimization or perpetration
- Sigma – high risk for sexual victimization

During the interview with a staff member who performs screening for risk of victimization and abusiveness, they reported the screening too takes into account medical issues, disability, have they been a victim, have they been in prison/jail before, their age, weight, and type of offenses they have committed. They stated this assessment is done when they arrive at intake.

**115.41(f)(g)** Policy IS5-2.3, Offender Internal Classification, reads, “CCM’s will complete a second internal classification within 30 calendar days of the offender’s arrival to the facility...”

Policy D1-8.13, Offender Sexual Abuse and Harassment, Section III (C)(1), pages 10, states “The offenders risk level shall be reassessed when warranted due to referral, incident of sexual abuse, or upon request or receipt of additional information that impacts an offenders risk of sexual victimization or abusiveness.”

Also on page 4 of this same policy in Section D (3) it states, “A second internal classification will be completed within thirty calendar days of the offender’s arrival at the reception and diagnostic center, if they have not been transferred. If there is a change in the offender’s internal classification score a case manager will review the offender’s housing assignment to determine if a change in bed assignment is required. If an assignment change is required, this must be made on the same day the internal classification is completed. Any time an offender is returned to a diagnostic center this process will be repeated.”

**115.41(h)** Policy D1-8.13, Offender Sexual Abuse and Harassment, reads, “...The offender shall not be disciplined for refusing to answer or not disclosing complete information during the assessment.”

The Adult Internal Risk Assessment Manual also states, “...The Case Manager should attempt to complete the assessment to the best of their abilities. The Case Manger should note in sections requiring offender response “refused to participate” and answer no to those questions. Offenders cannot be disciplined for refusing to answer questions...”

**115.41(i)** On pages 4 and 5 of Policy D1-8.13, Offender Sexual Abuse and Harassment, reads, outlines how the internal classification scores will be documented. In Section (F) it states, “(1) Upon completion of the internal classification process, a printout of the results will be placed in the offender’s classification file in accordance with institutional services procedures regarding classification files and will be maintained in accordance with the departmental procedure regarding record retention. (2) CCMs will enter the offender’s internal classification score into the department computer system along with the date of internal classification and their employee identification number in accordance with the internal classification manual.”

The Adult Internal Risk Assessment Manual also states, “Click on Assessment Listing (Do not print the final formed version of the assessment). Find the assessment in the Assessment Listing screen for the offender. Click on the file folder icon in the assessment line. This will bring up another window with the assessment summary. Click on the printer icon at the top of the assessment.

Only case managers have access to the information found on the risk assessment. It was reported that line staff do not have access to this information. Intake staff also reported that there is limited access to the information obtained. They also stated that this is in policy.

### **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.**

BCC uses the information from the risk screening required by 115.41 to inform housing, bed, work, education, and program assignments with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive. Each determination is based on the individual. BCC has three classifications: Sigma (high risk for sexual victimization), Alpha (high potential for sexual perpetration) and Kappa (not a high risk for either sexual victimization or perpetration).

Housing and program assignments for transgender or intersex inmates in the facility are made on a case by case basis.

BCC has policy in place that outlines the make-up and actions of a transgender committee. This committee consists of administrative staff, medical/mental health professionals, and the inmate to discuss the needs, housing, shower, and safety issues of the individual. **In the past twelve months there has been no transgendered inmates assigned to BCC so no meeting has taken place.**

**115.42(a)(b)** Policy IS5-2.3 Offender Internal Classification, Section III (C) Diagnostic Centers, page 1, states “The department utilizes an internal classification system to assist department staff members in determining appropriate housing, programs, and work assignments of offenders to ensure offender safety, institutional security, and compliance with the Prison Rape Elimination Act (PREA) guidelines.” On page 2 of this same policy reads, “Staff members who supervise offenders in required activity assignments will utilize the internal classification score to monitor offenders in accordance with institutional services procedures regarding required activities.

In this same policy on page 3, housing based internal classification is addressed. It states, “Upon completion of the internal classification, the offender will be housed according to his score in accordance to the internal classification manual. Whenever possible, sigmas should be celled with sigmas and alphas with alphas. If an offender does not have an internal classification score he should be housed with a kappa with similar demographics until the offender internal classification instrument is completed.”

IS & SOP 18-1.1, Required Activities, page 5, Section III (B) (4), states, “Housing unit staff members will utilize the internal classification information to designate required activities assignments for the purpose of keeping separate and/or ensuring the appropriate monitoring of those offenders at high risk of being sexually victimized from those at high risk of being sexually abusive when working or attending programming together in accordance with institutional services procedures regarding offender internal classification. Housing unit staff members will review internal classification information and forward it to the required activities’ supervisor prior to the offender’s start date at the required activity.”

On page 6 of this same policy, states, “The Required Activities Coordinator will notify the work supervisor of the offender’s internal classification information. The work supervisor is responsible for knowing the internal classification of their workers and assign tasks in such a manner to ensure the appropriate monitoring of those offenders at high risk of being sexually victimized from those at high risk of being sexually abusive when working. Internal classification information shall not be used by any staff member to preclude placement of an offender in a required activity.”

SOP D1-8.13 Offender Sexual Abuse and Harassment, page 12, “All housing, cell, bed, education, and programming assignments for transgender or intersex offenders shall be made in accordance with the institutional services procedures regarding offender housing assignments and programming assignments.”

Site Coordinator stated that information from the assessment tool is used to determine housing, education and programs. He stated it is the policy and practice of BCC not to house potential victims with potential aggressors.

An example of housing assignments was found in a memo dated March 25, 2106 from BCC Assistant Warden to all staff responsible for offender cell assignments. The subject of the memo was “CDV #7 Cell Assignments.” The memo states, “Effective immediately, offenders who have been found guilty of a CDV #7.1 Forcible Sexual Misconduct will be housed accordingly. We must make every effort to assign offenders with others who have compatible risk scores. In an effort to do this, please ensure offenders who are classified as Alpha are not celled with an offender whose Adult Internal Risk Score is Sigma. It is possible to run a report in OPII that will indicate all offenders at BCC who have received and been found guilty of a CDV#7.1. Please ensure that you run this report on a weekly basis and that all offenders who have been found guilty of forcible sexual misconduct are celled appropriately as outlined above...”

BCC provided examples of these reports from various housing units. Housing units’ rosters were also reviewed to determine if this practice was currently being followed.

**115.42(c)(d)(e)(f)(g)** Policy IS & SOP 5-3.1, Offender Housing Assignments, also outlines the Transgender Committee. The policy reads, “Each institution shall convene a transgender committee to determine and review an offender’s classification on a case by case basis. A

transgender or intersex offender's own views with respect to his or her safety shall be given serious consideration. The transgendered committee should meet and have a written recommendation completed within 10 working days of the offender's arrival at the facility. The recommendation should be forwarded to the appropriate deputy division director of the division of adult institutions; the director of the division of rehabilitative service and the prison rape elimination act (PREA) coordinator for review and approval. A response should be made back to the transgender committee within 10 working days. The transgender committee's approved written decision shall be maintained in the offender's classification and medical records in accordance with departmental procedures regarding record retention. The transgender committee will review the housing assignments every six months following the initial determination. Reassessments can be done more frequently as needed on a case by case basis. Transgender or intersex offenders shall be given the opportunity to shower separately from other offenders as outlined by SOP."

SOP D1-8.13, Offender Sexual Abuse and Harassment, page 11, states "Housing assignment for transgender and intersex offenders shall be made on a case-by-case basis by the institutional transgender/intersex committee or designee of the community confinement facilities to ensure the health and safety of the offender in accordance with the institutional services procedure regarding offender housing assignments and the probation and parole procedure regarding risk assessment and housing assignments."

IS & SOP 5-3.1 Offender Housing Assignments, pages 4 -5 addresses Transgender Housing Assignments. It also states, "The transgender committee is responsible for determining a permanent housing assignment for each transgender or intersex offender, and prior to this assignment shall meeting with each offender to determine his vulnerability within the general population and length of time living as the acquired gender. Transgender and intersex housing assignments shall not be made based solely on genitalia by must consider the offender's health and safety and the security of the facility through a review of the respective classification, medical and mental health records."

A copy of the template the Transgender Committee would use to determine housing was also reviewed by the auditor.

The Site Coordinator reported that BCC does not have a designated wing to house transgender or intersex inmates. She stated that if a transgender or intersex inmate would be assigned to their facility, they would be offered separate shower times.

### **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.**

BCC has policy that prohibits the placement of inmates at high risk for sexual victimization in involuntary segregated housing unless an assessment of all available alternatives has been made and a determination has been made that there is no available alternative means of separation from likely abusers. In the past 12 months, there has been no inmate placed in involuntary segregation.

**115.43(a)** Policy D1-8.13 Offender Sexual Abuse and Harassment, (F) Segregated Housing in Institutional Setting, pages 17 -18 states "Following an allegation of offender sexual abuse or if an offender is assessed at being high risk of victimization, the shift commander shall ensure the offender is housed in the least restrictive housing available to ensure safety. The assessment for least restrictive housing shall occur within 24 hours of the allegation or the offender being identified as at risk. Least restrictive options to ensure safety of the offender and the security of the institution include:

- (1) Return to assigned housing.
- (2) Temporary reassignment of staff members.
- (3) Assignment to another housing unit.
- (4) Temporary segregated housing for protective custody needs (segregated housing should not be considered as the first option to ensure safety of the victim).

The assessment shall consider the allegation or threat and the safety of the victim and institution. If the assessment is due to an alleged PREA event the shift commander shall note on the PREA allegation notification penetration/non-penetration event checklist of the recommended housing option. If temporary segregation is recommended, the shift commander shall note on the PREA notification checklist the reason no

alternative means of housing separation can be arranged and the offender victim shall be placed in segregated housing in accordance with institutional services procedures regarding segregation units. The shift commander shall ensure the alleged victims and perpetrators are separated by sight and sound while housed in a segregation unit. Offenders who are victims and/or perpetrators in an alleged PREA event will be kept out of sight and sound from each other and be placed in separate wings. If the assessment is due to an offender being viewed as being in substantial risk of victimization in the absence of an allegation of offender sexual abuse, and temporary administrative segregation confinement (TASC) is recommended to ensure the offender's safety, the shift commander shall note the PREA risk on the TASC order and the offender shall be placed in segregated housing in accordance with institutional services procedures regarding segregation units. The PREA site coordinator shall review all PREA notification checklists the following business day to ensure appropriate housing placement. Assignment to involuntary segregation housing shall not ordinarily exceed a period of 30 days. Every 30 days, the offender shall be afforded a review to determine whether there is a continuing need for separation from the general population in accordance with institutional services procedures regarding segregation units and protective custody."

Policy IS21-1.1 "Temporary Administrative Segregation Confinement" states, "Offenders may be placed in temporary administrative segregation confinement upon recommendation by any staff member and approved by the shift commander when an offender is an immediate security risk....there is an urgent need to separate the offender from others for his/her safety or that of others..."

The number of inmates at risk of sexual victimization who were held in involuntary segregated housing in the past 12 months for one to 24 hours is zero.

On the day of the audit there were no inmates being held in segregation based on high risk for victimization. The auditor did review three PREA allegation notifications that have been completed in the past 12 months. In looking at the housing placement recommendations, all indicated that alleged victim would remain in the original housing units. Only alleged perpetrators were removed.

Staff reported that the typical response is not to segregate the victim. They stated if involuntary segregation would be used to protect a victim, they would follow agency policy. They reported it is not to be longer than 48 hours and they do their best to make sure programming would continue. Staff reported that everything is documented and becomes a part of the classification hearing that is held.

Staff that works in the segregation unit stated victims that request segregation are there less than 30 days unless they (the victim) request a longer stay.

Random interviews of inmates revealed a common theme. All stated they would not report being a victim of sexual abuse because they would "immediately go to the hole." They reported they have seen it happen multiple times.

**RECOMMENDATION:** The auditor spoke to administration about the perception the inmates have of being placed "in the hole" when they report sexual abuse or harassment. After much discussion, it is believed that inmates are in fact seeing the coordinate response and the victims are being separated out for interviews and trips to medical and/or mental health. It is recommended that Functional Unit Managers and Corrections Case Managers talk with the inmates in their living units and stress that victims are not punished for reporting sexual abuse and harassment

The auditor could not find documentation to support this claim. The auditor reviewed all investigatory files on site. Upon review of these files, there were no instances where the victim was involuntarily placed in segregation. All housing documentation indicated that victim remained in their housing unit.

**115.43(b)** BCC states there have been no inmates placed in segregated house for high risk for sexual victimization in the last 12 months.

**115.43(c)** BCC states there have been no inmates placed in segregated house for high risk for sexual victimization in the last 12 months.

**115.43(d)** BCC states there have been no inmates placed in segregated house for high risk for sexual victimization in the last 12 months.

**115.43(e)** BCC states there have been no inmates placed in segregated house for high risk for sexual victimization in the last 12 months.

**NOTE:** Auditor reviewed MDOC's Segregated Housing for Protective Custody which outlines the an assessment of all alternative housing choices (least restrictive housing) must be conducted prior to placing a victim in segregated housing for protection and that victims of sexual abuse ordinarily not be held in segregated housing for longer than 30 days.

### 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.**

BCC has established multiple procedures for allowing inmates internal ways to report sexual abuse or sexual harassment privately to the facility or to an outside entity. Inmates may report via an informal resolution request, to a staff member, PREA hotline, advocacy agency, or to the Department of Public Safety, Crimes Victims Services Unit. Third party reports are also accepted by BCC.

As of the date of this audit, BCC does not have any offenders who are detained solely for civil immigration purposes.

**115.51(a)** Policy D1-8.13 Offender Sexual Abuse and Harassment, "Reporting Sexual Abuse or Harassment," pages 14 states, "Each facility CAO's or designee shall provide multiple ways for offenders to make anonymous reports of allegations of offender sexual abuse and harassment, retaliation, staff neglect, and violation or responsibilities that may contributed to an incident of offender sexual abuse, to include but not be limited to: informal resolution request (IRR), grievance process, or offender complaint, to a staff member, PREA hotline, advocacy agency, and Department of Public Safety, Crimes Victims Services Unit. All allegations including anonymous, third party, verbal, or allegations made in writing shall be accepted and moved forward in accordance with the offender sexual abuse coordinated response outlined in this procedure."

Auditor reviewed the offender brochure on "Offender Sexual Abuse and Harassment" which is given out at intake. This brochure outlines the ways inmates can make reports of sexual abuse and sexual harassment. It reads, "Report the abuse to any staff member either verbally or in writing as soon as possible, whether the alleged incidence involved you or not. Call the department's confidential PREA hotline. You can do so at any offender phone by listening to the prompts and pressing "8" or dialing (573) 526-PREA (7732). Write to the Missouri Department of Public Safety, Crime Victims Services Unit, P.O. Box 749, Jefferson City, MO 65102. If you are assigned to a community release center or community supervision center, you may report sexual abuse using the above guidelines or call the PREA hotlines at (855) 773-6391.

Staff was able to articulate the various ways inmates can report sexual abuse and sexual harassment. They stated that all reports are taken seriously. They also advised that they could also call the PREA hotline and make a report. They advised this information was in their employee handbook.

Inmates interviewed were also able to articulate the various ways they could make a report including calling the hotline, telling staff and/or family members. Although they were aware of the PREA hotline, many felt that it was not anonymous. They also reported they felt most staff took reports seriously and they felt safe at BCC.

Information was posted on bulletin boards throughout the facility and in the housing units advising inmates on how to make reports of sexual abuse.

**115.51(b)** Auditor reviewed the MOU with the Missouri Department of Public Safety. Missouri Department of Public Safety's responsibilities include initiating a SharePoint application that can be shared by DPS and DOC. The DPS shall receive written correspondence of allegations of offender sexual abuse and harassment. All written correspondence received by the DPS shall be assigned a tracking number. The DPS shall record in the SharePoint application the date of the written correspondence is received, the name of the institution, the name of the victim if known and the date the letter is forwarded to the DOC. The DOC shall record in the SharePoint application the date offender letter is received and any action taken. This MOU is ongoing from the date of the final signature until such time as it is deemed unnecessary by either party. The MOU was signed July 25, 2013.

**115.51(c)** SOPD1-8.13, Offender Sexual Abuse and Harassment, page 14, states, "All allegations including anonymous, third party, verbal, or allegations made in writing shall be accepted and moved forward in accordance with the offender sexual abuse coordinated response outlined in this procedure. \*\*\*SOP: All verbal reports received, offender or staff, will be requested in writing and forwarded to the shift supervisor by the end of the staff member's shift or prior to leaving the institution. Offender's verbal statements should be documented by staff receiving the statement noting the date and time the offender made the statement and what immediate action was taken."

Auditor reviewed 31 PREA Notifications made by an anonymous report, a third party report, and telephone monitoring and staff members. BCC initiated their coordinate response promptly according to their policy and PREA national standards.

**115.51(d)** Policy D1-8.9 Crime Tips and PREA Hotlines, page 5, Section III (C) states, “For staff, the department has established a separate crime tips hotline to anonymously report criminal activity, offender sexual abuse, or offender sexual harassment and is received in the office of inspector general. These calls may be answered by a staff member in the office of inspector general or in cases of afterhours calls, the caller may leave a message and a return phone number should they wish to be contacted. Information regarding hotline use for staff will be posted conspicuously in areas routinely accessible to all staff members.”

Staff Tips Hotline posters are throughout the facility and are located in the officer work areas, staff newspaper and on the MDOC intranet home.

**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.**

BCC has an administrative procedure for dealing with inmates grievances regarding sexual abuse. This procedure also allows them to submit a grievance at any time regardless when the incident occurred. If their grievance is against a staff member, they are not required to submit their grievance through that staff member. BCC also outlines, through policy, where grievance cannot be filed.

BCC also requires that a decision on the merits of any grievance or portion of a grievance alleging sexual abuse be made within 70 days of the filing of the grievance. According the pre-audit questionnaire, the agency reported that in the past twelve months, four grievances have been filed. Three of these grievances have been closed and one remains pending at the time of audit.

**115.52(a)(b)(c)** Policy D5-3.2 Offender Grievance, pages 17-19 addresses PREA Informal Resolution Request, Grievance and Appeal. The following are portions of this policy that supports this standard:

**Time limit**

- “The department shall not impose a time limit on when an offender may submit a complaint regarding an allegation of offenders’ sexual abuse.”

**Informal Process**

- “The department will not require an offender to use the informal grievances process, or to otherwise attempt to resolve with staff members, an alleged incident of offender sexual abuse.”
- “Informal resolution request alleging sexual abuse will be processed normally with the exception of the following: A response should be completed as soon as practical, but no later than 30 calendar days of receipt.”

**Against a Staff Member**

- “A staff member who is subject of the complaint should not be the respondent.”

**Grievance Process**

- “Offender grievances alleging sexual abuse will be processed normally with the following exceptions: the CAO or designee should respond within 30 calendar days of receipt, and, computation of the 30 day time period will not include the days between the offender’s receipt of the informal resolution request and receipt of the offender grievance by the grievance officer or designee.”
- “Offender grievance appeals alleging offender sexual abuse will be processed normally with the following exceptions: a response should be provided as soon as practical, but no later than 30 calendar days of receipt, and, computation of the 30 day time period will not include the days between the offender’s receipt of the offender grievance response and receipt of the offender grievance appeal

by central office grievance staff members. Appeals will be referred to the deputy division director or designee, and, an extension of time to respond, of up to 70 days, may be claimed if the normal time period for response is insufficient to make an appropriate decision. The offender will be notified in writing of any such extension and will be provided a date by which a response will be provided.

- “At any level of the administrative process, including the offender grievance appeal level, if the offender does not receive a response within the time allotted for reply, including any properly noticed extension, the offender may proceed to the next level of the offender grievance process”

### **Third Party Reporting:**

- “Third parties, including fellow offenders, staff members, family members, attorneys, and outside advocates, shall be permitted to assist offenders in filing requests for informal resolution requests, grievances or appeals relating to allegations of offender sexual abuse. This assistance cannot interfere with the safety and security of the institution.”
- “When a staff member receives a request from a third party to file a complaint via the offender grievance procedure on behalf of an offender regarding allegations of offender sexual abuse. The staff member will require the party making the complaint to submit such in writing.”
- “Administrative or case management staff members will then prepare a report of incident in accordance with procedure for possible investigation or inquiry.”
- “When a staff member receives the documentation from the reporting third party, it will be attached to an informal resolution request form and will immediately be recorded in accordance with this procedure. A copy of the documentation will also be forwarded to the CAO or designee in order to be attached to the possible investigation or inquiry.”
- “The case manager shall attempt to discuss the issue with the offender (victim) prior to developing a response to confirm if the alleged victim agrees to have the request filed on his behalf.”
- “If the offender declines to have the request processed on his behalf, the case manager shall document the offender’s decision in the discussion section of the informal resolution request form and the complaint shall be considered withdrawn for grievance purposes.”
- “If the offender agrees to have the request processed on his behalf, it will then be documented in the discussion section of the informal resolution request and will be processed normally in accordance with this procedure.”

### **Emergency Informal Resolution Requests**

- “Allegations of offender sexual abuse by employees shall immediately be reported to the CAO or designee for possible investigation or inquiry.”
- “If the staff member who processes the informal resolution requests determines that it meets the definition of a PREA emergency complaint, the offender will be provided an informal resolution request form.”
- “Emergency informal resolution requests will be processed as follows:
  - The offender will request an informal resolution request form from case management staff members and briefly state the issues and subject of complaint in accordance with this procedure.
  - When a staff member receives the completed informal resolution request form from the offender, the staff member will record receipt of the form in accordance with this procedure and it will be taken to the CAO or designee immediately.
  - Upon receipt of an informal resolution request from an offender, the CAO or designee may confer with the PREA site coordinator to make the determination if the informal resolution request should be handled as an emergency.
  - The CAO or designee will prepare an initial response which will be attached to the informal resolution request and provided to the offender within 48 hours of receipt of the initial filing date. The offender will sign and date the response.
  - A final response from the CAO or designee will be provided to the offender within 5 calendar days from the initial filing date. The offender will sign and date the form.
  - The initial and final response for the informal resolution request shall document the department’s determination whether the offender is in substantial risk of imminent sexual abuse and the action taken in response to the emergency informal resolution request.
  - If the offender is unsatisfied with the final response for the informal resolution request and chooses to file a grievance, an offender grievance form will be provided. The grievance or grievance appeal will then be processed as a non-emergency PREA complaint as noted in this procedure.”

Policy D1-8.13 Offender Sexual Abuse and Harassment, Page 13 - 14, states “The department shall not require an offender to use any informal grievance or complaint process, or to otherwise attempt to resolve with staff members, an alleged incident of sexual abuse...nor impose a time limit”

Policy D1-8.9 Crime Tips and PREA Hotlines, page 4, Section III (A)(1a) states “The hotlines will not be utilized for complaints, grievances or other unrelated purposes.”

SOPDI-8.13 Offender Sexual Abuse and Harassment, page 14, addresses exhausting administrative remedies. It states, “The department shall

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not require an offender to use any informal grievance or complaint process, or to otherwise attempt to resolve with staff members, an alleged incident of sexual abuse. The department shall not impose a time limit on when an offender may submit a grievance or complaint regarding an allegation of sexual abuse. The department may apply otherwise applicable time limits to any portion of a grievance or complaint that does not allege an incident of sexual abuse in accordance with the department procedure regarding offender grievance, administrative inquiries, and investigation unit responsibilities and actions. The department shall ensure that an offender who alleges sexual abuse may submit a complaint to a staff member who is not the subject of the complaint and the grievance or complaint is not referred to a staff member who is the subject of the complaint. Staff members are to address grievances or complaints for allegations of sexual abuse and harassment in accordance with the department procedure regarding offender grievance, administrative inquiries, and investigation unit responsibilities and actions.”

Policy D5-3.2 Offender Grievance, page 6, Section III, (E)(2b)(1) states, “Upon approval of the division director or designee, a conduct violation may be issued for threats. This conduct violation will not be viewed as retaliation reprisal.” Also on page 6, Section III (E)(4a)(1) it states, “When there is evidence to support an unfounded allegation, the CAO or designee will issue a conduct violation and the CAO or designee will issue a letter of limited filing status.”

Auditor also reviewed the following training provided at statewide meeting regarding grievances, “PREA and the Grievance Process.”

Auditor also reviewed BCC Grievance PREA Tracking Logs from 2015 and 2016.

**115.52(d)** At this time BCC has not had any grievances where a final decision was not reached within 90 days.

**115.52(e)** BCC reports they have had no third party grievances filed within the past year.

**115.52(f)** BCC reports they have had no emergency grievances filed pursuant to this standard.

### **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.**

BCC provides inmates with outside access to victim advocates for emotional support services related to sexual abuse by providing mailing addresses to Just Detention International (JDI) and Rape, Abuse and Incest National Network (RAINN). They also inform inmates prior to given them access to outside supports, the extent to which such communications will be monitored. BCC was unable to enter a MOU with a community provider.

**115.53(a)(b)** D1-8.13 Offender Sexual Abuse and Harassment, page 19, covers the procedure during the initial assessment with mental health when there is an allegation of sexual abuse and harassment. It states, “During the initial assessment, mental health treatment interventions will be discussed with the victim by the QMHP and will include options such as individual and/or group therapy. The QMHP will explain and offer advocacy services to the alleged victim offender. Advocacy will not be offered for allegations of sexual harassment. The QMHP will document the offender’s acceptance or refusal of advocacy services in the electronic medical record. If the offender refuses advocacy services the QMHP will have the victim sign the refusal of treatment - no show form. If the offender requests an advocate, the QMHP will notify the PREA site coordinator.”

Auditor reviewed the Notice to Offenders Assigned to Administrative Segregation Reporting Allegations of Sexual Harassment. This notice outlined how inmates in Administrative Segregation can still have access to outside emotional support services. Inmates in BCC’s Administrative Segregation can contact JDI, RAINN as well as Missouri Department of Public Safety. They are given the addresses and are instructed they do not have to place their return address on the envelope.

It should also be noted that the advocacy posters also state, “Be aware: Per department policy, mail will be subject to examination and phone call may be monitored.”

Interviews with inmates resulted in mixed responses in when it came to the discussing availability of advocates. Most stated they knew they were available but was unsure how to access them if needed.

**RECOMMENDATION:** Have the Case Managers re-educate inmates when they meet with them: just as staff need PREA refreshers so do inmates. Have them do a brief PREA refresher that covers reporting and advocacy availability.

**115.53(c)** BCC currently does not have an Advocate Agency that can provide emotional support services. An email dated October 23, 2014 to the Statewide Coordinator states, “Per your request, I am sending you an acknowledgement that you met with True North staff several times in mid-2013. We discussed the possibility of signing an MOU and had a preliminary discussion on the protocols such an MOU would encompass. We had, in fact, gotten far enough along in our discussions that a tentative MOU was drafted (see email below). After meeting with our funders, however, we discovered a conflict with two of our major funding sources. We were, therefore, unable to accept the MOU or participate in your program at that time. Several months after the meeting mentioned below, I did attend an informational meeting set up by the Missouri Coalition Against Domestic Violence and Sexual Assault and facilitated by your staff. Again, we hoped we would be able to participate but were unable to do so due to funder requirements and financial restrictions. Thank you for taking the time to make sure we thoroughly understood the issues you face and the services you were requesting. I trust this communication will provide sufficient documentation that, indeed, you made significant attempts to involve our agency in PREA but we were, regretfully, unable to participate. Thank you.”

### **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.**

BCC provides a method to receive third party reports of inmate sexual abuse or sexual harassment. Family members can make report via information found on MDOC website. They can either email or make a phone call.

**115.54(a)** Policy SOPD1-8.13 Offender Sexual Abuse and Harassment, Section III (D)(2), page 14 states, “All allegation including anonymous, third party, verbal, or allegations made in writing shall be accepted and moved forward in accordance with the offender sexual abuse coordinated response outlines in this procedure.”

Auditor verified that reporting information is on the MDOC website. The URL is <http://doc.mo.doc/OD/PREA.php>. This site has an email address and a phone number available to the public.

### **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.**

BCC requires all staff to report immediately any knowledge or suspicion of any incident of sexual abuse or sexual harassment. This is also in their policy.

**115.61(a)(b)** Policy D1-8.13 Offender Sexual Abuse and Harassment, page 7, “The CAO or designee shall control the dissemination of sensitive information related to offender sexual abuse to ensure the offender is not exploited by staff members or other offenders. Failure to report offender sexual abuse is a class A misdemeanor. All staff members, volunteers, and contractors shall immediately report any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in a facility and any knowledge of retaliation against offenders or staff members who reported such an incident and any staff member neglect or violation of responsibilities that may have contributed to an incident or retaliation in accordance with this procedure. Medical and mental health staff members shall inform offenders of the practitioner’s duty to report at the initiation of services. Staff members are prohibited from revealing any information related to an allegation of offender sexual abuse or harassment other than to the extent necessary to make treatment, investigation, and other security and management decisions.”

Policy D2-11.10, Staff Member Conduct, not only states that staff members must obey all laws but on page 7, Section III, (D1&2) states, “Staff members having knowledge of any instances of offender or resident abuse or sexual contact with an offender or resident shall immediately report such to the inspector general in accordance with the department procedures regarding offender physical abuse and offender sexual abuse and harassment. Staff members must immediately report any misconduct through the appropriate chain of command. If there is reason to believe that any staff member in the chain of command may be involved in the alleged misconduct, the staff member should report the matter to the next higher level of management in the department.

BCC requires all staff to report immediately any knowledge or suspicion of any incident of sexual abuse or sexual harassment. This is also in their policy.

Staff members interviewed reported they have a duty to report. They also reported are just as liable for failing to report sexual abuse and sexual harassment as they would be for failing to report any crime.

**115.61(c)** Policy D1-8.13 Offender Sexual Abuse and Harassment reads, “Medical and mental health staff members shall inform offenders of the practitioner’s duty to report at the initiation of services.”

**115.61(d)** Policy IS11-32 Receiving Screening Intake Unit, page 5 addresses procedure if the alleged victim is under the age 18 or considered to be a vulnerable adult. The policy states, “Health services staff members shall obtain informed consent from offenders in accordance with institutional services regarding informed consent before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the offender is under the age of 18. If the offender is under the age of 18, a health service staff member shall report the allegation to the designated local Children’s Division, Department of Social Services under applicable mandatory reporting laws.”

Auditor also reviewed Missouri Revised Statutes, Chapter 217, Department of Corrections, Section 217.410. 1 which states, “When any employee of the department has reasonable cause to believe that an offender in a correctional center operated or funded by the department has been abused, he shall immediately report it in writing to the director.”

Missouri Revised Statutes, Chapter 630, Department of Mental Health, Section 630.005.1, defines a vulnerable person as “any person in the custody, care, or control of the department that is receiving services from an operated, funded, licensed, or certified program.”

Missouri Revised Statutes, Chapter 630, Department of Mental Health, Section 630.163.1, defines mandatory reporting requirements as “Any person having reasonable cause to suspect that a vulnerable person presents a likelihood of suffering serious physical harm or is the victim of abuse or neglect shall report such information to the department. Reports of vulnerable person abuse received by the departments of health and senior services and social services shall be forwarded to the department.”

**115.61(e)** Policy D1-8.13, Offender Sexual Abuse and Harassment,” page 13 states, “All allegations including anonymous, third party, verbal, or allegations made in writing will be accepted and moved forward in accordance with the offender sexual abuse coordinated response outlined in this procedure.” Page 16 states, “All allegations of offender sexual abuse and/or harassment, including third party and anonymous reports, shall immediately be forwarded to the shift supervisor to initiate the coordinated response utilizing the applicable PREA allegation notification penetration/non-penetration event checklist”.

BCC also provided a copy of their PREA Coordinated Response to Offender Sexual Abuse.

### **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.**

BCC acts immediately if they learn that an inmate is subject to a substantial risk of imminent sexual abuse. In the past twelve months, there have been no inmates that have been reported to be subject to substantial risk of imminent sexual abuse.

**115.62(a)** SOPD1-8.13, Offender Sexual Abuse and Harassment, page 20, under Segregated Housing in Institutional Setting states, “If the assessment is due to an offender being viewed as being in substantial risk of victimization in the absence of an allegation of offender sexual abuse, and temporary administrative segregation confinement (TASC) is recommended to ensure the offender’s safety, the shift commander shall note the PREA risk on the TASC order and the offender shall be placed in segregated housing in accordance with institutional services procedures regarding segregation units.”

Administrative staff stated that the expectation for all staff is to act immediately if they become aware of an offender being in imminent danger of sexual abuse. This involves beginning the facility’s coordinate response and separate the victim from the alleged perpetrator. The warden also stressed staff are use the least restrictive housing available to secure the victim. The facility’s goal is to keep the victim separate from their reported abuser.

Random staff reported that if such an incident would occur they would immediately secure the alleged victim for safety purposes and contact their supervisor.

BCC reports there have been no incidents in the past 12 months where the facility determined that an inmate was 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.**

BCC has a policy requiring that, upon receiving an allegation that an inmate was sexually abused while confined at another facility that the Warden must notify the head of the facility where the sexual abuse is alleged to have occurred. Notification is to be made as soon as possible but no later than 72 hours after receiving the allegation.

They also have a policy that states that allegations received from other facilities are investigated in accordance with PREA standards.

**116.63(a)(b)(c)(d)** Policy D1-8.13 Offender Sexual Abuse and Harassment, page 16 states, “Upon receiving information that an offender has been sexually abused while assigned at another facility the coordinated response for offender sexual abuse will be immediately initiated as outlined in this procedure. If the alleged abuse occurred at a facility outside the department, the notification checklist will be forwarded to the department’s PREA coordinator. The PREA coordinator will ensure notification to the facility is made with 72 hours.”

BCC reported that in the last twelve months they have not received any reports from incoming or current inmates that abuse occurred at another facility.

BCC stated, “In the event that a report is received that an offender was sexually abused or harassed while housed at another facility, the issue is referred to the shift supervisor who will immediately assess the offender’s need for protective custody. The shift supervisor will complete PREA Audit Report

the PREA notification checklist. In addition, the PREA Site Coordinator notifies appropriate Staff Members at the facility in which the abuse took place, will be notified immediately via electronically.”

BCC reported that in the last twelve months they have received no reports from another agency regarding sexual abuse reported to have happened at their facility.

Interview with facility administration revealed that any notification BCC receives would be sent to the site coordinator who then sends information to the Inspector General. Administration advises that the Inspector General will make the determination if an investigation would be opened.

### **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.**

BCC has a Coordinator Response in policy that outlines the duties of a first responder. This coordinated response has all four components listed in this standard.

**115.64(a)** Auditor reviewed BCC’s Coordinated Response that is a part of policy D1-8.13 Offender Sexual Abuse and Harassment located on page 17. This part of the policy states, “Staff member first responder shall:

- Ensure the safety of the victim.
- Request the victim not to take any actions that may destroy physical evidence including washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating, when applicable.
- Make immediate notification to the shift commander or shift supervisor.
  - In the event of an allegation of a penetration act, the shift commander or shift supervisor shall make telephone notifications and respond as outlined in the divisions' coordinated response to offender sexual abuse protocol.
  - In the event of a non-penetration or harassment event the shift commander or shift supervisor shall make email notifications as outlined in the applicable PREA notification checklist protocol.
- Shift supervisors will copy the email notification with the PREA checklist attachment to necessary WRDCC mental health staff. Shift supervisors will complete and forward (via email and hard copy) the Referral and Screening Note-Health Services form to the mental health staff.”

Auditor reviewed the lesson plan for PREA Basic Training, pages 21 –23 covers first responder responsibilities. It breaks down the First Responder responsibilities by type of event. The three events covered include allegation of penetration that has happened within 72 hours, all other penetrations and allegations of non-penetration events.

Staff all stated that as a first responder they responsibility is to separate the victim from the abuser, allow neither one of them to shower, get a drink or change clothes. They stated they would then call their supervisor who, in turn, contacts the investigators. Staff would also secure the scene and would not allow anyone to enter until the investigators arrived and took control. When asked if they would allow the Warden to enter the area, the answers were mixed. Those who said they would allow the Warden in the area stated they would document that the entrance had occurred.

**115.64(b)** All staff are considered to be first responders and are to follow the coordinated response found in D1-8.13 Offender Sexual Abuse and Harassment.

When talking with contractors, they stated if they were the first to respond to a sexual abuse allegation they would keep the victim safe and notify staff immediately.

### **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.**

BCC has developed a coordinated response to all sexual abuse incidents.

**115.65(a)** The coordinated response to offender sexual abuse covers the following topics:

- Role and Responsibilities of Shift Commander, Site PREA Coordinator, First Responder, Mental Health, and Medical
- Exceptions to the protocol

SOPD1-8.13 Offender Sexual Abuse and Harassment includes a section on coordinated response on pages 16 and 17. It states, “CAO or designee shall coordinate actions taken by first responders, medical, mental health, investigators, and administrators in response to all allegations of offender sexual abuse and harassment as outlined in the divisions' coordinated response to offender sexual abuse protocol. All allegations of offender sexual abuse and/or harassment, including third party and anonymous reports, shall immediately be forwarded to the shift supervisor to initiate the coordinated response utilizing the applicable PREA allegation notification penetration/non-penetration event checklist. The coordinated response will be completed and distributed as outlined in the Coordinated Response Completion Guide (SOP Reference E) as well as the Coordinated Response to Offender Sexual Abuse (Institutions) protocol (SOP Reference F). Offender/staff interpreters for non-English speaking victims/perpetrators can only be utilized in an exigent circumstance when the event is first reported until an outside interpreter can be arranged. If the allegation is reported directly to a facility administrator the administrator can initiate the coordinated response to ensure confidentiality utilizing the notification checklist.

Staff member first responder shall:

- Ensure the safety of the victim.
- Request the victim not to take any actions that may destroy physical evidence including washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating, when applicable.
- Make immediate notification to the shift commander or shift supervisor.
  - In the event of an allegation of a penetration act, the shift commander or shift supervisor shall make telephone notifications and respond as outlined in the divisions' coordinated response to offender sexual abuse protocol.
  - In the event of a non-penetration or harassment event the shift commander or shift supervisor shall make email notifications as outlined in the applicable PREA notification checklist protocol.
  - Shift supervisors will copy the email notification with the PREA checklist attachment to necessary WRDCC mental health staff. Shift supervisors will complete and forward (via email and hard copy) the Referral and Screening Note-Health Services form to the mental health staff.
- Upon receiving information that an offender has been sexually abused while assigned at another facility the coordinated response for offender sexual abuse will be immediately initiated as outlined in this procedure. If the alleged abuse occurred at a facility outside the Missouri Department of Corrections, the notification checklist will be forwarded to the department’s PREA coordinator. The PREA coordinator will ensure notification to the facility is made with 72 hours.
- A coordinated response will be initiated as outlined in this procedure for all allegations of offender sexual abuse that are received from facilities outside the Missouri Department of Corrections.”

Administrative staff articulated all components of the facility’s coordinated response to sexual abuse and harassment. The expectation outlined by the administration is that every employee should be knowledgeable of the coordinated response and execute the response when needed.

### **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.**

MDOC has a labor agreement with Missouri Corrections Officers Association that ends 9/30/2018.

**115.66(a)** Policy D2-11.6, Labor Organization, page 4 states, “Per the Prison Rape Elimination Act, the department shall not enter into or renew any collective bargaining agreements or other agreements that limit the department’s ability to remove alleged staff sexual abusers from contact with any offender resident pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted.”

On page 2, Article 2, Management Rights of Labor Agreement between the State of Missouri Office Administration, The Department of Corrections Division of Adult Institutions and Missouri Corrections Officers Association (MOCOA) states, “The right to hire, assign, reassign, transfer, promote and to determine hours of work and shifts and assign overtime.”

### **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.**

BCC has policy in place to protect all inmates and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigation from retaliation by other inmates or staff.

In the past twelve months there have been reports of retaliation against staff or inmates.

**115.67(a)(b)(c)(d)** Policy D1-8.13 Offender Sexual Abuse and Harassment, page 14 outlines the protection from retaliation for inmates and staff in the following manner:

- Inmates:
  - The PREA site coordinator shall ensure all victims and reporters and those that cooperate with offender sexual abuse and harassment investigations or inquiries are monitored and protected from retaliation.
  - Immediately following any reported incident of sexual abuse or harassment, monitoring for retaliation shall be conducted in the following manner:
    - The alleged victim and reporter of offender sexual abuse or harassment shall be monitored for a minimum of 90 days to assess any potential risk or act of retaliation.
      - For offender victims and offender reporters, monitoring shall include face-to-face status checks by staff members a

minimum of every 30 days.

- The assessment/retaliation status check form shall be used during each of the assessment interviews.
- If the victim or reporter expresses fear of retaliation, monitoring shall continue for an additional 90 day period or until the victim or reporter is no longer in fear of retaliation or if the investigation or inquiry is unfounded.

- Staff

- The PREA site coordinator or designee shall monitor all staff reporters of offender sexual abuse or harassment for a minimum of 90 days. Monitoring shall include but is not limited to monitoring for changes that may indicate retaliation, negative performance reviews, or reassignments.
  - The assessment/retaliation status check form shall be used during each of the assessment interviews.
- The PREA site coordinator or designee shall ensure all witnesses receive an initial assessment utilizing the assessment/retaliation status check form.
  - Witnesses who voice they have no concerns regarding potential retaliation shall not receive further monitoring.
  - The witness shall sign the assessment/retaliation status check form showing they have no concerns regarding potential retaliation.

This policy also states, “The PREA site coordinator shall report all evidence of retaliation to the CAO to ensure an inquiry or investigation is initiated in accordance with department procedures. If possible retaliation is suggested, the PREA site coordinator shall act promptly to remedy any such retaliation and protect the individual. The PREA site coordinator shall ensure victims, reporters, and witnesses that report a fear of retaliation and/or possible victims of retaliation be offered emotional support services. Emotional services for offender victim, reporters, or witnesses include but are not limited to, case management or referral to mental health, chaplain, or advocacy when appropriate. Emotional services for staff reporters or witnesses included but are not limited to, employee assistance program, peer action and care team referral, and/or chaplain referral. All action taken to remedy retaliation or services offered victim or suspected victim shall be noted on the assessment/retaliation status check form. In the event that a victim, offender reporter, or a witness is transferred during a period of monitoring, the PREA site coordinator shall forward the assessment/retaliation status check form to the PREA site coordinator in the receiving institution. The PREA site coordinator at the receiving institution shall ensure monitoring continues as outlined in this procedure. The PREA site coordinator shall ensure the completed assessment/retaliation status check form is returned to the originating institution to be filed in the PREA incident file for future audits. If released to a community confinement facility monitoring will continue. If released to a field probation and parole office, monitoring will stop. In the event the allegations are determined to be unfounded the agency shall terminate monitoring.”

BCC provided an example of “Assessment/Retaliation Status Checklist” form and also provided example of monitoring for retaliation spreadsheet which had twenty cases listed. These twenty monitoring examples show check-ins averaging once every 30 days. All examples reviewed indicated “no harassment or retaliation was reported.” It should also be noted that during the retaliation monitoring advocate services were offered to the offenders and no offenders requested these services.

### 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.**

BCC has policy that prohibits the placement of inmates who allege to have suffered sexual abuse in involuntary segregated housing unless an assessment of all available alternatives has been made. In the past twelve months, there have been no inmates placed in involuntary segregated housing.

**115.68(a)** SOPD1-8.13, Offender Sexual Abuse and Harassment, pages 19 and 20, under Segregated Housing in Institutional Setting states, “Following an allegation of offender sexual abuse or if an offender is assessed as being at high risk of victimization, the shift commander shall ensure the offender is housed in the least restrictive housing available to ensure safety. The assessment for least restrictive housing shall occur within 24 hours of the allegation or the offender being identified as at risk. Least restrictive options to ensure safety of the offender and the security of the institution include:

- Return to assigned housing.
- Temporary reassignment of staff members.
- Assignment to another housing unit.
- Temporary segregated housing for protective custody needs (segregated housing should not be considered as the first option to ensure safety of the victim).

The assessment shall consider the allegation or threat and the safety of the victim and institution. If the assessment is due to an alleged PREA event the shift commander shall note on the PREA allegation notification penetration/non-penetration event checklist of the recommended housing option. If temporary segregation is recommended, the shift commander shall note on the PREA notification checklist the reason no alternative means of housing separation can be arranged and the offender victim shall be placed in segregated housing in accordance with institutional services procedures regarding segregation units. The shift commander shall ensure the alleged victims and perpetrators are separated by sight and sound while housed in a segregation unit. When an offender is believed to be in substantial risk of victimization, the shift commander will assess the offender to ensure housing in the least restrictive housing. If TASC is determined to be the least restrictive housing the shift commander will note on the TASC order the offender is being placed in Segregated housing due to a PREA risk. The offender will be placed in segregated housing in accordance with institutional services procedures regarding segregation units. The PREA site coordinator will review all PREA notification checklists the following business day to ensure appropriate housing placement. Assignment to involuntary segregation housing will not ordinarily exceed a period of 30 days. Every 30 days, the offender will be afforded a review to determine whether there is a continuing need for separation from the general population in accordance with institutional services procedures regarding segregation units and protective custody. Administrative and criminal investigation reports will be retained for 90 years from the completion of the investigation and in accordance with the department procedure regarding records retention. \*\*\*SOP: BCC does not have a protective custody unit and all offenders assigned to TASC as a PREA risk will be evaluated initially via the TASC order and the PREA notification checklist. This will be repeated again with the offender within 72 hours by the administrative segregation committee and, if assigned to segregation, will be evaluated every 30 days by the administrative segregation committee. The administrative segregation committee should note on the Classification Hearing Form (SOP Reference A) the need for further separation and any programs, academic education, or services not provided during the period as a result of the offender’s confinement in segregation.”

BCC’s PREA Segregation Checklist is as follows, “\_If the offender is an alleged **victim of sexual abuse**, all Classification Hearing forms **MUST** note his current work, school, and program assignments the offender will be unable to attend while being housed in segregation. If the offender is missing a class due to his confinement in segregation, the Classification Hearing form should say **how many** times they meet per week or if it is known he has been dropped from the program due to prolonged absence; that should be documented.\_If the offender’s confinement is continued, the Classification Hearing form must document the **reason** assignment to segregation was continued.\_After the initial hearing the offender should be scheduled for a review date the same as a protective custody status offender and be seen again in 3 weeks. Offender alleged victims and perpetrators will not be housed on the same floor in segregation. Offender alleged victims and perpetrators will not receive recreation or other services at the same time where they would be in contact.

BCC reports, “BCC has not had any offender victims placed in segregation due to a PREA investigation during this reporting period.”

**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.**

The Inspector General conducts all criminal case investigations at BCC. Administrative agency investigations are also conducted at BCC.

**115.71(a)** Policy D1-8.1 Investigation Unit Responsibilities/Actions, page 5, Section III (A) (2) (3) states, “The department maintains a zero tolerance policy against offender abuse and offender sexual abuse. The PREA also prohibits sexual misconduct by staff members against an offender and offender against an offender. All such allegations will be thoroughly reviewed for potential investigation. The investigation unit, under the jurisdiction of the inspector general's office, is the investigative unit of the department. This unit conducts investigations in

response to reports of violations of Missouri state law and serious violations of department procedure at all facilities throughout the state. The unit works closely with federal, state and local law enforcement agencies and the other divisions within the department to ensure criminal violators are prosecuted. The department may pursue prosecution of any staff member or offender who violates state law.”

Page 7 of this same policy states, “The facility shall report all allegations of sexual abuse, including third-party and anonymous reports, in accordance with the department procedure addressing offender sexual abuse and harassment.”

Page 10 of this same policy, Section H, outlines the investigators responsibilities. The policy states, “All investigators shall aid and assist in investigations as directed, and to the limit permitted, by the responsible law enforcement agency and the inspector general or designee. Investigators may be assigned outside their normally assigned region to assist in statewide investigations. Investigators shall conduct investigations into all allegations assigned for investigation promptly, thoroughly, and objectively. Investigators shall gather and preserve direct and circumstantial evidence, including any available physical, DNA evidence and any available electronic monitoring data; shall interview alleged victims, suspected perpetrators, and witnesses; and shall review prior complaints and reports of behavior involving the alleged victim and suspected perpetrator. Medical records or information related to offender sexual assaults and uses of force may be obtained from facility medical practitioners without authorization from central office. The credibility of a victim, suspect, or witness shall be assessed on an individual basis and shall not be determined by the person’s status as an offender or employee. Investigations shall be documented in a written report that contains a thorough description of physical, testimonial and documentary evidence and attach copies of all documentary evidence where feasible. Administrative investigations shall include an effort to determine whether staff member actions or failures to act, contributed to the behaviors being alleged. The departure of the alleged abuser or victim from employment or control of the department shall not provide a basis for terminating the investigation. When an investigation reveals probable cause that an offender or staff member has committed, or is suspected of committing, an act in violation of local, state or federal law, the investigator conducting the investigation shall note in the investigative report that the case will be forwarded for prosecution consideration, and submit a request for prosecution packet. The prosecution packet will include at a minimum: the investigation report written by the investigator, a probable cause statement completed by the investigator that conducted the investigation, all relevant documentation associated with the investigation, and other information deemed necessary by the prosecuting attorney’s office having proper jurisdiction. . .CAOs shall impose no standard higher than a preponderance of the evidence in determining whether allegations of offender sexual abuse are substantiated.”

**115.71(b)** Auditor reviewed the training roster from “PREA Specialized Investigator Training” dated January 1, 2013 through September 20, 2014. The roster showed that 56 investigators statewide received this training during that time frame. In October of 2014 17 investigators also attended this training.

**115.71(c)** Policy D1-8.1 Investigation Unit Responsibilities/Actions states, “All investigators shall aid and assist in investigations as directed, and to the limit permitted, by the responsible law enforcement agency and the inspector general or designee. Investigators may be assigned outside their normally assigned region to assist in statewide investigations. Investigators shall conduct investigations into all allegations assigned for investigation promptly, thoroughly, and objectively. Investigators shall gather and preserve direct and circumstantial evidence, including any available physical, DNA evidence and any available electronic monitoring data; shall interview alleged victims, suspected perpetrators, and witnesses; and shall review prior complaints and reports of behavior involving the alleged victim and suspected perpetrator. Medical records or information related to offender sexual assaults and uses of force may be obtained from facility medical practitioners without authorization from central office.”

In the past 12 months there have been no investigations involving a SANE exam other evidence at BCC.

**115.71(d)** Policy D1-8.1 Investigation Unit Responsibilities/Actions states, “When an investigation reveals probable cause that an offender or staff member has committed, or is suspected of committing, an act in violation of local, state or federal law, the investigator conducting the investigation shall note in the investigative report that the case will be forwarded for prosecution consideration, and submit a request for prosecution packet. The prosecution packet will include at a minimum: the investigation report written by the investigator, a probable cause statement completed by the investigator that conducted the investigation, all relevant documentation associated with the investigation, and other information deemed necessary by the prosecuting attorney’s office having proper jurisdiction. . .CAOs shall impose no standard higher than a preponderance of the evidence in determining whether allegations of offender sexual abuse are substantiated.”

BCC had one sustained allegation of offender sexual abuse and one referral for prosecution for staff on offender. This staff member was charged in February 2016.

**115.71(e)** Policy D1-8.1 Investigation Unit Responsibilities/Actions states, “The credibility of a victim, suspect, or witness shall be assessed on an individual basis and shall not be determined by the person’s status as an offender or employee.”

**115.71(f)** Policy D1-8.4 Administrative Inquiries, page 5, Section III, (A) states, “Any staff member having direct or indirect knowledge of a potential category I or IV behavior shall immediately notify the CAO by submitting a report of incident, or memorandum, through the chain of command. A copy of all reports of harassment, sexual misconduct, discrimination, or retaliation should be sent to the employee relations supervisor. Staff members must fully cooperate with all administrative inquiries and must fully and truthfully relate their knowledge of all

facts pertaining to the alleged behavior under review. Staff members who are the subject of a criminal investigation are not required to provide incriminating information about their own misconduct. However, in all other cases, staff members must fully cooperate with any investigation or administrative inquiry and truthfully relate their knowledge of all facts.”

Pages 5 and 6 of this same policy discuss when an administrative inquiry may be conducted. This policy states, “An administrative inquiry may be conducted when a staff member may have been engaged in category I behaviors, or an offender may have been engaged in category IV behaviors. When the CAO receives information that a staff member may have been engaged in category I behavior, the CAO shall review the information and determine the appropriate course of action... The offender sexual abuse coordinated response will be initiated on all allegations of offender sexual abuse or harassment, including anonymous and third party allegations, in accordance with the department’s procedure regarding offender sexual abuse and harassment. Based on the circumstances of the allegation, the CAO may immediately remove or reassign the staff member from having contact with the offender pending the outcome of an investigation, or the determination of whether and to what extent discipline is warranted, or if there is reason to believe the offender is being retaliated against by the staff member.”

Administrative staff report all administrative cases are assigned by the Warden. Administration advised that requests for investigations are referred to the inspector general’s office and they in turn make the determination if an investigation is going to be opened

**115.71(g)** Policy D1-8.1 Investigation Unit Responsibilities/Actions states, “Investigations shall be documented in a written report that contains a thorough description of physical, testimonial and documentary evidence and attach copies of all documentary evidence where feasible.”

**115.71(h)** BCC had one sustained allegation of offender sexual abuse and one referral for prosecution for staff on offender.

**115.71(i)** Auditor reviewed the Agency Records Disposition Schedule and found that records are retained for 50 years.

**115.71(j)** BCC had one instance during the reporting period a staff member was referred for prosecution. This staff member was charged in February 2016.

**NOTE:** Investigative staff stated they have received specialized PREA training and was able to explain what they covered in training including the discussion of DNA collection, Miranda, Garrity and interviewing victims. Investigative staff stated that all investigations are written in report form. They interview victims, alleged perpetrators, witnesses as well as review any video surveillance that is available. Staff also stated that they look at the totality of the investigation before making a determination. They do not look solely on the credibility of the victim. Investigations are not terminated until all facts and evidence is gathered. Staff stated they do not terminate an investigation when the alleged perpetrator leaves the facility. (This includes staff.)

Auditor reviewed all investigative files at the facility. Investigators interviewed victims, witnesses and the alleged perpetrators. These investigations also included an anonymous report through their Crime Tips hotline. All reports were very thorough and done in a timely manner.

### **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.**

BCC imposes no higher standard of a preponderance of the evidence or a lower standard of proof when determining whether allegations of sexual abuse or sexual harassment are substantiated.

**115.72(a)** Policy D1-8.4 Administrative Inquiries, page 8, Section III (C) (9) states, “No higher standard than a preponderance of evidence in determining whether allegations of sexual abuse are substantiated.”

BCC also provided all investigatory files for this auditor to review. Auditor reviewed all cases of PREA allegations of inmate on inmate

sexual harassment and staff on inmate sexual abuse. All reports were well written and thorough. They included interviews with the victim, alleged perpetrator and witnesses. All cases were closed within 60 days.

Investigative staff stated they do not impose a higher standard of a preponderance of the evidence. They reported they take their investigations seriously and that sexual abuse and harassment is not tolerated.

#### **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.**

BCC has a policy requiring that any inmate who makes an allegation that she suffered sexual abuse is informed, verbally or in writing, as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded following an investigation.

The Inspector General’s office conducts all criminal investigations and BCC conducts administrative investigations.

**115.73(a)(c)(d)(e)** Policy D1-8.13, Offender Sexual Abuse and Harassment, Reporting Outcomes, pages 23 and 24 states, “Upon the completion of a PREA investigation or inquiry regarding offender sexual abuse, the department’s PREA coordinator shall make written notifications to the alleged victim regarding the outcome of the investigation or inquiry utilizing the applicable alleged sexual abuse by offender notification or the alleged sexual abuse by staff notification form. Notification shall not be made to the offender following an investigation or inquiry regarding sexual harassment. The initial notification shall state whether the allegation was substantiated, unsubstantiated, or unfounded.

In the event that the investigation was conducted by an outside agency, the office of the inspector general shall request relevant information from the outside agency in order to inform the offender of the outcome of the investigation. All subsequent notifications shall be made when: Staff member on offender allegations: following the completion of an inquiry or investigation, the offender shall be notified when the following occurs unless the inquiry or investigation is unfounded:

- (1) Staff perpetrator is no longer assigned to the housing unit.
- (2) Staff perpetrator is no longer employed at the institution or department.
- (3) The staff perpetrator has been indicted on a charge related to sexual abuse within the institution.
- (4) A disposition of charges exists related to sexual abuse within the institution.

Offender on offender allegations: following the completion of an inquiry or investigation, the offender shall be notified when the following occurs.

- (1) The offender has been indicted on a charge related to sexual abuse within the institution.
- (2) A disposition of charges exists related to sexual abuse within the institution.

The departmental PREA coordinator shall forward the written notification to the offender via the PREA site coordinator. The PREA site coordinator shall ensure that the written notification is provided to the offender. If the investigation or inquiry involved offender-on-offender sexual abuse or harassment that was substantiated or unsubstantiated, written notification shall be delivered to the offender victim in a confidential manner. The offender shall be offered the notification letter but shall have the right to decline the letter. The original notification shall be signed by the offender or resident and witnessed by a staff member. The original notification shall be forwarded to the department’s PREA coordinator for tracking. A copy of the notification shall be provided to the offender. The date the notification letter is delivered to the offender shall be documented in the chronological section of the offender’s classification file. In the event the offender is no longer housed in an institution, community release center, or community supervision center the duty to report ends.”

Administrative staff reported that it is in policy that all offender victims are notified of the outcomes of their PREA cases. Investigative staff reported that notifications are made and also reported that this is part of policy.

In the past 12 months, 28 criminal and/or administrative investigations of alleged inmate sexual abuse were completed by BCC and investigators. Of these cases, two required notifications to inmates. These notifications were made per this standard and per policy.

**115.73(b)** N/A BCC is responsible for conducting administrative investigations and the Inspector General’s Office has investigators inside the facility to conduct criminal investigations of alleged sexual abuse and sexual harassment.

**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.**

BCC has procedures in place to discipline staff for violating agency sexual abuse and sexual harassment policies. In the past 12 months, there has been one staff member disciplined under this policy. This staff member was terminated and charged in district court in February 2016.

**115.76(a)(c)(d)** Policy D2-11.10 Staff Misconduct, page 4, Section III (A) (14) states, “In order to pursue organizational excellence staff members are expected to adhere to the following professional principles and conduct...report inappropriate actions, misconduct, offender or resident abuse, and sexual contact by staff members and offenders or residents to appropriate personnel.”

Policy D1-8.13 Offender Sexual Abuse and Harassment, Section III (N), page 27 states, “Staff members shall be subject to disciplinary sanctions up to and including termination for violating agency sexual abuse and sexual harassment procedures. Termination from the department shall be the presumptive disciplinary action for staff members who have engaged in sexual abuse. All terminations for violations or the resignation of a staff member, who would have been terminated if not for their resignation, shall be reported to relevant licensing or accreditation bodies and law enforcement.”

**115.76(b)** BCC reports one staff member has been terminated in the past twelve months following a substantiated investigation for sexual abuse.

**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.**

BCC requires that any contractor or volunteer who engages in sexual abuse be reported to law enforcement, unless the activity was clearly not criminal, and to any relevant licensing bodies.

In the past 12 months, there have been no contractors or volunteers engage in sexual abuse of inmates.

**115.77(a)(b)** Policy D1-8.13 Offender Sexual Abuse and Harassment (Page 27 of SOP version) states, “Corrective action for contractors and volunteers: Contractors or volunteers who engage in sexual abuse shall be prohibited from contact with offenders and shall be reported to PREA Audit Report

relevant licensing bodies and law enforcement. The CAO or designee of the department facility or contracted facility shall take appropriate measures and shall consider whether to prohibit further contact with offenders in the case of any other violations.”

Policy D2-13.1 Volunteers, page 11 -13, Section III (G) states, “All volunteers will be familiar with and adhere to the standards for professionalism, conduct, and job performance in accordance with the department policy and procedures regarding employee standards and staff member conduct. All offender sexual abuse and harassment allegations that occur in a department facility involving a volunteer will be referred for investigation. Volunteers may be subject to disciplinary action and/or termination. When disciplinary action is recommended, the volunteer supervisor shall submit documentation to the volunteer site coordinator outlining the reasons for such actions.

The volunteer site coordinator shall provide the CAO with the recommendation and documentation. If the volunteer is a multi-location volunteer, the volunteer site coordinator requesting the disciplinary action shall provide a copy of the documentation to the volunteer site coordinator at the home base location and/or all other additional locations. If the CAO concurs, and the discipline requires suspension, the volunteer will be suspended and notified in writing within 5 working days that he is suspended and that the recommendation for disciplinary action is being sent to the volunteer services coordinator. The CAO shall forward a recommendation for disciplinary action to the supervisor of department volunteer services with all pertinent documentation. The volunteer services coordinator shall determine what, if any, disciplinary sanctions are warranted. Within 10 working days of receipt of the recommendation, the supervisor of department volunteer services shall provide written notice of discipline sanctions to the volunteer, CAO, volunteer site coordinator, and volunteer supervisor at all locations where the volunteer was approved to provide services...”

Administrative staff stated that all contractors and volunteers are subject to the same policies as regular employees when it comes PREA. Staff stated volunteer and contractors are expected to abide by the zero-tolerance culture of the facility. They reported they would be barred until the investigation is complete. If it is found to be substantiated, they would be terminated and not allowed back in the facility.

#### **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.**

At BCC inmates are subject to disciplinary sanctions only pursuant to a formal disciplinary process following an administrative finding that an inmate engaged in inmate-on-inmate sexual abuse. The facility will offer therapy, counseling or other interventions to interrupt that type of behavior. If an inmate makes a report in good faith, there will no disciplinary action.

**115.78(a)(b)(c)(d)(e)(f)(g)** Policy D1-8.13 Offender Sexual Abuse and Harassment, Section III (M), pages 24 and 25 state, “Offenders shall be subject to disciplinary sanctions or violations pursuant to a formal disciplinary process following an administrative finding or a criminal finding of guilt when the offender engaged in offender on offender sexual abuse in accordance with divisional and institutional services procedures regarding conduct violations and disciplinary sanctions. Sanctions shall be commensurate with the nature and circumstances of the abuse committed, the offender’s disciplinary history, and the sanctions imposed for comparable offenses by other offenders with similar histories in accordance with divisional and institutional services procedures regarding conduct violations and disciplinary sanctions. The disciplinary process shall consider whether an offender’s mental disabilities or mental illness contributed to his behavior when determining what type of sanction, if any, shall be imposed in accordance with divisional and institutional services procedures regarding conduct violations and disciplinary sanctions. The mental health notification memo (SOP Reference H) will be completed and forwarded to mental health staff for completion prior to concluding the disciplinary hearing. If found guilty of sexual abuse, the offender shall be referred to appropriate treatment (therapy, counseling) by mental health staff member, as available, in accordance with divisional and institutional services procedures regarding conduct violations and disciplinary sanctions. An offender who has sexual contact with a staff member may only be disciplined if the staff member did not consent to the contact in accordance with divisional and institutional services procedures regarding conduct violations and disciplinary sanctions. The department prohibits all sexual activity between offenders. Consensual sexual activity between offenders will not be deemed sexual abuse and shall be addressed in accordance with divisional and institutional services procedures regarding conduct violations and disciplinary sanctions.”

Policy IS&SOP 19-1.1 Conduct Rules and Sanctions, Section II (Definitions) pages 1 and 2 state, “If the rule violation is a major violation, is

serious in nature, threatens the safety and security of the institution, is for sexual misconduct, or involves the destruction of state or offender property the employee should immediately fill out a Conduct Violation Report (Attachment A) and not use an informal sanction.” This policy also defines sexual activity as “Any sexual act; intentional touching, whether done by a foreign object or by physical human contact of a sexual part of another or of self, regardless of whether such touching is consensual, kissing, or fondling; or physical or verbal conduct of a sexual nature.”

This policy also defines forcible sexual misconduct as “Using force, coercion or threats of force to obtain the compliance of another in any type of sexual activity.” It defines sexual misconduct as “Engaging with another in any type of sexual activity; Engaging in the self-touching of one’s sexual parts in view of others and inappropriately exposing one’s sexual parts to others.”

BCC provided a copy of a memo dated August 1, 2013 that was addressed to all Wardens and the subject was “PREA Protocols.” The memo stated, “The date for full compliance with PREA standards is rapidly approaching. When fully implemented, our facilities will be better equipped to detect, prevent, and respond to incidents of offender sexual abuse and harassment. During our DAI Staff meeting yesterday, we discussed the PREA protocols that will move the department towards compliance with the PREA standards. While the procedure revisions are pending, we are implementing the PREA protocols, which were provided to you yesterday, as outlined below: To be implemented for PREA incidents that occur from this day forward: Segregated Housing for Protective Custody, Disciplinary Sanctions and Mental Health...”

BCC reported they one incident where an offender was issued a conduct violation for sexual contact with staff after finding that the staff member did not consent to such contact. This offender was also placed in segregation for 30 days as a result of this violation.

BCC states that inmates are not punished for making a PREA allegation especially if it is made in good faith. Administration reported this is in MDOC policy.

After visiting with mental health staff, it was reported they do not get the mental health referral until have an inmate is found guilty of sexual misconduct. They also advised there are no consequences if the inmate chooses not to participate in services.

**116.78(c)** Auditor reviewed the Disciplinary Sanction Sheet that outlined the disciplinary process for forcible sexual abuse. This process outlines the responsibilities of the Adjustment Hearing Board as well as a Qualified Mental Health Professional. The process also states, “PREA mandates that the disciplinary process consider whether an offender’s mental disabilities or mental illness contributed to his/her behavior when determining what type of sanction, if any, shall be imposed. 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 require the offending offender to participate in such interventions as a condition of access to programming or other benefits. In this process it also states that an offender will not be issued a conduct violation for sexual misconduct involving a staff member unless the sexual activity is forced upon the staff member by the offender. In addition it states a report of offender 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 or the allegation is unfounded.”

### **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.**

Inmates housed at BCC are offered follow up meetings with medical or mental health professionals if they disclosed any prior sexual victimization. This is also offered to inmates who have previously perpetrated sexual abuse. Informed consent is obtained from inmates unless they are under the age of 18.

**115.81(a)(c)(d)** SOP DI-8.13 Offender Sexual Abuse and Harassment, page 10, Section III (C) (5), page 12, states, “If the screening indicates that an offender has experienced prior sexual victimization, whether it occurred in a correctional setting or in the community, staff members shall ensure that the offender is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening.

\*\*\*SOP: Staff completing the assessment shall indicate on the assessment that mental health services were offered and whether accepted or declined in the notes/comments. If question #4 “*At any time, have you ever been the victim of sexual abuse?*” is answered “yes” there must be a comment added regarding mental health services. The case manager conducting the initial adult internal risk assessment will notify the ICMH and the PREA site coordinator to ensure a follow-up meeting is scheduled when the offender agrees to accept services. If the screening indicates that an offender has previously perpetrated sexual abuse, whether it occurred in a correctional setting or in the community, staff members shall ensure that the offender is offered a follow-up meeting with a mental health practitioner within 14 days of the intake screening.

\*\*\*SOP: Staff completing the assessment shall indicate on the assessment that mental health services were offered and whether accepted or declined in the notes/comments. If question #16 “*Has the offender ever been found guilty of any sex offenses with adult victims?*” is answered “yes” there must be a comment added regarding mental health services. The case manager conducting the initial adult internal risk assessment will notify the ICMH and the PREA site coordinator to ensure a follow-up meeting is scheduled when the offender agrees to accept services. 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.”

IS11-32 Receiving Screening – Intake Center, pages 4 -5, Section III (B) states, “If during the screening, the offender reports being sexually abused within the last 72 hours or if a forensic exam is deemed medically necessary, the coordinated response to offender sexual abuse will be initiated in accordance with departmental procedures regarding offender sexual abuse and harassment. If the screening indicates the offender has experienced prior sexual victimization and a forensic exam is not deemed medically necessary, the coordinated response protocol will not be initiated and the offender will be offered a follow-up meeting with a medical and/or mental health practitioner within 14 days of the intake screening. If the screening indicates the offender has previously perpetrated sexual abuse, whether it occurred in an institutional setting or in the community, staff members shall ensure that the offender is offered a follow-up meeting with a QMHP within 14 days of the intake screening. Health services staff members shall obtain informed consent from offenders in accordance with institutional services regarding informed consent before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the offender is under the age of 18.”

Auditor also reviewed the PREA Risk Assessment Manual --- many questions remind users that if marked “yes” they need to contact mental health. For example Question 1 of the Risk Assessment:

1. Have you ever been approached for sex/threatened with sexual abuse while incarcerated? (If the offender offers any information with regards to incident place information in the comments box, it is not necessary to get specific details. Determine if the incident was reported. Has the assailant been added to the victim’s enemy listing? Determine if the offender needs Protective Custody or a Mental Health Referral...”

Interviews with inmates stated they knew if they wanted mental health assistance due to a PREA allegation they can request it through their Functional Unit Managers (FUM’s.) Inmates stated they have never been denied access to mental health at this facility.

Auditor reviewed the “AIC Mental Health Referral List 2016.” Ninety-four inmates were offered mental health services based on answers to the PREA risk assessment. This log tracks the date the referral was made, if services were declined or accepted and if follow-up services were offered

**115.81(b)(e)** BCC provided a copy of the “AIC Mental Health Referral List 2016.” This log tracks all mental health referrals from coordinated responses and information obtained from the risk assessment. It also tracks the offender name, DOC number, date mental health was notified, if services were declined or accepted and if follow-up services were offered. This log contains 94 entries.

### **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.**

Inmate victims of sexual abuse at BCC receive timely, unimpeded access to emergency medical treatment and crisis intervention services. They are also offered information and access to sexually transmitted infections prophylaxis. All services are provided at no cost to the

victim.

**115.82(a)(b)(c)** Policy SOP D1-8.13 Offender Sexual Abuse and Harassment, pages 21 - 24 states, “Victims of sexual abuse shall receive timely, unobstructed access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by health services practitioners according to their professional judgment. Health Services staff member cannot collect physical evidence from a victim or perpetrator following a report of offender sexual abuse but may assist in the preservation of items related to the incident. A sexual assault forensic examiner (SAFE) or sexual assault nurse examiner (SANE) may collect evidence in conjunction with a sexual assault examination. Health services staff members will screen victims for obvious physical trauma, and provide emergency medical care. If the alleged perpetrator is a staff member, the victim will be transported to the community emergency room for a sexual assault examination to be performed by a SANE or SAFE. The offender will be out counted when the incident is alleged to have occurred within 120 hours.

**\*\*\*SOP: If the alleged perpetrator is a staff member, the offender requiring a sexual assault examination to be performed by a SAFE or SANE will be transported to the University of Missouri, Columbia, MO hospital or Western Missouri Medical Center, Warrensburg, MO if not available at University of Missouri-Columbia.**

If an allegation of offender sexual abuse is made within 120 hours of the alleged event and consists of penetration of the mouth, anus, buttocks, or vulva, however slight, by hand, finger, object instrument, or penis, health services staff member will: Contact the on call SANE staff member to inform them to report to the facility and determine the staff member’s estimated time of arrival. Notify the shift commander that a sexual assault examination is needed and the estimated time of arrival of the SANE staff member. The shift commander will proceed with the coordinated response as outlined in the coordinated response protocol for institutions. The offender will be held in medical when possible until the arrival of the investigator and the victim advocate. Keep the victim separated from the perpetrator by sight and sound at all times. Obtain informed consent from the victim for completion of the sexual assault examination. If the victim refuses a sexual assault exam, health services staff members will educate the offender on importance of sexual assault exams. If the offender continues to refuse a sexual assault exam, documentation of the refusal will be noted on the refusal of treatment - no show form. Document any emergency treatment provided, in subjective complaints, objective findings assessment, and treatment plan (SOAP) format, in the applicable department computer system. Interact with the alleged victim in a neutral and non-judgmental manner. Ask the alleged victim for details of the incident that are important for the provision of health and services. Related documentation of the alleged assault should be released only to the CAO or designee and the institutional investigator.

**\*\*\*SOP: The designee at Boonville Correctional Center is the PREA site coordinator.**

The SANE staff member will collect evidence according to established forensic procedures for processing and document the exam and finding in the applicable department computer system. If a SANE staff member is not available to conduct the sexual assault examination or if the victim’s injuries are such that emergency room care is required, the victim will be transported to the community emergency room with a SANE or SAFE for the sexual assault examination. The health services staff member will notify the community emergency room. The health services staff member will contact the shift commander to arrange transportation to the emergency room in accordance with institutional services procedures regarding offender transportation and hospital and specialized ambulatory care. If the victim has showered and it has been more than 120 hours since the alleged assault, the physician will determine treatment and whether a sexual assault forensic exam is necessary. For investigative purposes, the investigator may direct that the victim receive a sexual assault medical examination by the on-call SANE staff member. Alleged victims of offender sexual abuse of any kind that consists of penetration of the mouth, anus, buttocks, or vulva, however slight, by hand, finger, object instrument, or penis will be provided with prophylactic treatment and follow-up for sexually transmitted or other communicable diseases, as clinically determined by the physician. Female victims will be offered timely information and timely access to pregnancy testing and emergency contraception in accordance with professionally accepted standards of care, where medically appropriate. If initial disclosure of offender sexual abuse is made to health services staff members, notification will be made to the shift commander to initiate the coordinated response to offender sexual abuse in accordance with this procedure. The reported perpetrator’s health record will be reviewed by the health services administrator or designee and referred to the physician for appropriate communicable disease diagnostic testing.

**\*\*\*SOP: When a PREA investigation finding is substantiated involving an offender on offender sexual abuse or sexual harassment, the Adjustment Board must receive input from a Qualified Mental Health Professional (QMHP) as outlined on the Mental Health Notification Sexual Assault Conduct Violation Letter (SOP Reference B) prior to conducting the hearing. The disciplinary action report should indicate the mental health report was received and taken into consideration as part of the disciplinary hearing process and reported findings.**

Upon receiving a report of a substantiated case of offender sexual abuse the PREA site coordinator will submit a referral and screening note - health services form to ensure the perpetrator will be assessed by qualified mental health professional (QMHP) within 60 days of learning of such abuse.

**\*\*\*SOP: The “Reason for Referral to Mental Health” section shall state the offender was found guilty of offender abuse. The assigned QMHP shall notify the PREA site coordinator of the date of the actual assessment for record keeping purposes.**

If the allegation involves penetration and the offender is receiving a sexual assault exam and/or treatment, a QMHP will assess the victim within two hours of the completion of the exam. If the allegation involves penetration but a sexual assault examination is not indicated due to the lapse of time since the event or the victim has showered, a QMHP will assess the offender within two hours of receiving notification from the shift commander. If the allegation involves non-penetration, mental health staff members will receive a referral and screening note - health services from the shift commander and assessment will be offered within the next business day unless emergent events warrant a more immediate response by mental health staff members. During the initial assessment, mental health treatment interventions will be discussed with the victim by the QMHP and will include options such as individual and/or group therapy. The QMHP will explain and offer advocacy services to the alleged victim offender. Advocacy will not be offered for allegations of sexual harassment. The QMHP will document the offender's acceptance or refusal of advocacy services in the electronic medical record. If the offender refuses advocacy services the QMHP will have the victim sign the refusal of treatment - no show form. If the offender requests an advocate, the QMHP will notify the PREA site coordinator. If no qualified medical or mental health practitioners are on duty at the time a report of a penetration event that occurred within 120 hours within a correctional facility, or 92 hours within a community confinement facility, custody staff first responders will take preliminary steps to protect the victim and will immediately notify the appropriate medical and mental health practitioners. Victims of sexual abuse will be offered timely information and access to emergency contraception and prophylactic treatment for sexually transmitted infections in accordance with professionally accepted standards of care, where medically appropriate. Treatment services will be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident. Each victim and abuser will be offered medical and mental health evaluations, and as appropriate, treatment to include appropriate follow-up services and treatment plans. When necessary, referrals will be completed for continued care following their transfer to, or placement in, other facilities or their release from custody. Victims and abusers will be provided with medical and mental health services consistent with the community level of care in accordance with the institutional services procedures regarding medical and mental health services. Victims of sexually abusive vaginal penetration while incarcerated will be offered pregnancy tests. If pregnancy results, the victim will receive timely, comprehensive information, and access to all lawful pregnancy-related medical services."

BCC's Coordinated Response to Offender Sexual Abuse addresses medical and mental health responsibilities for a penetration event and a non-penetration event.

For a penetration event:

Medical will:

- Assess the offender and process the medical out count to a hospital that utilizes Sexual Assault Nurse Examiners (SANE) to collect forensic evidence for an examination.
  - The listing of SANE hospitals can be found on the PREA intranet page. .
  - If the alleged victim refuses to submit to a forensic examination after speaking with the investigator, medical will have the offender sign the medical refusal form which will be forwarded to the PREA Site Coordinator to be attached to the PREA Event Checklist.
  - Provide follow-up care upon offender's return from the medical out count.

Mental Health:

- Mental Health will respond within 2 hours of the offender's return from the medical out count.

For a non-penetration event:

- Mental health – Mental Health Referral Form – will respond no later than the next business day

Mental health staff state that services start as soon as they are made aware of the need. They also were able to articulate their first responder responsibilities if something were to happen inside the clinic.

**115.82(d)** Auditor reviewed the contract requirements the MDOC has with Corizon. Pages 25 and 26 outline Corizon's obligations when obtaining medical care services from hospitals. The pages 42 – 45 outlines Corizon's experience with PREA, training regarding PREA, zero tolerance and mandatory reporting requirements if witnessing any form of sexual misconduct. Corizon will not charge victims for any services provided.

**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.**

BCC offers medical and mental health evaluations/treatment to all inmates who have been victimized by sexual abuse in any confinement settings. They also offer tests for sexually transmitted infections as medically appropriate. (NOTE: BCC is a male only facility.)

**115.83(a)(b)(c)(d)(e)(f)** SOP D1-8.13 Offender Sexual Abuse and Harassment, page 22, Section III (G) states, “Alleged victims of offender sexual abuse of any kind that consists of penetration of the mouth, anus, buttocks, or vulva, however slight, by hand, finger, object instrument, or penis will be provided with prophylactic treatment and follow-up for sexually transmitted or other communicable diseases, as clinically determined by the physician. Female victims will be offered timely information and timely access to pregnancy testing and emergency contraception in accordance with professionally accepted standards of care, where medically appropriate.”

BCC has not had any sustained cases of an offender victim or perpetrator that remained at BCC therefore there have not been any ongoing medical and mental health care for sexual abuse victims and abusers.

Mental Health/Medical Staff stated that physical exams are always done on all alleged victims. They always check to see if there is anything that is reportable. They advised that they do provide services that are consistent with the community.

**115.83(g)** Policy SOP D1-8.13 Offender Sexual Abuse and Harassment states, “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(h)** Medical also stated that known abusers were referred for mental health evaluations.

**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.**

BCC conducts a sexual abuse incident review at the conclusion of every criminal or administrative sexual abuse investigations, unless the allegation is determined to be unfounded. They do this within 30 days of the conclusion of the investigation. Members of the review team include upper-level management, supervisors, investigators, and medical and/or mental health professionals. The members document their findings and any recommendations they may make.

**115.86(a)** SOP D1-8.13 Offender Sexual Abuse and Harassment, page 24, Section III (I) states, “Each facility shall conduct a sexual abuse incident debriefing at the conclusion of every substantiated and unsubstantiated offender sexual abuse investigation or inquiry. A sexual abuse incident debriefing is not required on offender sexual harassment investigations or inquiries or if the investigation or inquiry is unfounded.

**115.86(b)** SOP D1-8.13 Offender Sexual Abuse and Harassment states, “Debriefings shall be held within 30 days of the conclusion of a formal investigation or inquiry utilizing the PREA sexual abuse debriefing form and submitted to the department PREA coordinator, CAO, and assistant division director.”

**115.86(c)** SOP D1-8.13 Offender Sexual Abuse and Harassment states, “The review team for offender sexual abuse events shall include the PREA site coordinator, and other upper level administrators, when applicable, with input from supervisors, investigator, and medical or mental health practitioners, when applicable. **\*\*\*SOP: The review team will consist of the PREA site coordinator, warden, investigator, health services administrator/designee, and other staff deemed necessary for the review by the PREA coordinator or warden.** A complete written report shall be prepared by the CAO or designee outlining in detail the findings of the debriefing sessions and recommendations for improvements utilizing the PREA sexual abuse debriefing form. The written report will be prepared by the PREA site coordinator.

**115.86(d)** Auditor reviewed three reviews of sexual abuse incidents that resulted from two unsubstantiated dispositions and one substantiated. This review included the name of the victim, assailant, staff members involved in the briefing, date and time of the incident, what occurred, location of the incident, housing information, was the allegation motivated by race, ethnicity or sexual orientation, information on the coordinated response, information on a forensic exam, mental health consultation, and any recommendations. These reviews were also included in the facility’s annual report.

Administration stated that they review each case and look for ways that can be done to make it better for the inmate and for the facility. They use these reviews to their advantage to improve prevention of abuse. These reviews can justify the need for more cameras and can also justify the need for additional staff.

**115.86(e)** SOP D1-8.13 Offender Sexual Abuse and Harassment states, “The facility shall implement the recommendations for improvement, or shall document its reasons recommendations shall not be implemented. The completed report shall be stamped confidential and shall be submitted to the assistant division director with a copy to department’s PREA coordinator. The assistant division director shall forward the report to the division director. A copy of the report shall be filed in the institutional PREA event file for future audits.”

Of the three incident reviews the auditor looked at, two resulted in no recommendations and one incident resulted in the need to review the hours the librarian works.

### **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.**

Data needed to complete the annual Survey of Sexual Violence is collected in the Correctional Information Network (COIN) system. Data is collected and reviewed annually.

**115.87(a)(b)(c)(d)** Policy D1-8.13 Offender Sexual Abuse and Harassment states, “Each facility shall utilize information from the offender sexual abuse debriefings to prepare an annual report to be submitted to the department’s PREA coordinator by the last working day in March. The report shall include: 1) identified problem areas, 2) recommendations for improvement, 3) corrective action taken, 4) if recommendations for improvements were not implemented, reasons for not doing so, 5) a comparison of the current year’s data and corrective actions with those from prior years, and an assessment of the facility’s progress in address sexual abuse, 6) an evaluation of the need for camera and monitoring systems, 7) in consultation with the PREA site coordinator; assessment determination, and documentation of whether adjustments are needed to the staffing plan, the deployment of video monitoring and the resource availability to adhere to the staff plan. The yearly report shall be submitted to the division director and the department PREA coordinator no later than the last working day in March.

The PREA coordinator shall prepare an annual report compiling each facility’s current year’s data and corrective actions. The report shall include a comparison with prior year’s data, corrective actions, and an assessment of the department’s progress in addressing offender sexual abuse. The report shall be forwarded to the department director for approval by the last working day in May.”

Auditor reviewed examples of monthly incident data from September 2013, December 2013, February 2014, April 2014 and December 2014. Auditor also reviewed the 2015 PREA breakdowns for each facility in the MDOC.

Auditor reviewed the MDOC 2015 PREA Annual Report. This report contained information on the progress the department made in 2014 in PREA, a trend analysis of all investigations in the state and correction actions for each facility. This report is also published on the MDOC website at <http://doc.mo.gov./OD/PREA/php>.

Administrative staff reported that data is collected monthly and reported annually to the PREA Coordinator.

**115.87(e)** N/A BCC does not contract for the confinement of its inmates.

**115.87(f)** BCC completes the SSV each year.

### **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.**

**115.88(a)(b)(c)** SOPD1-8.13 Offender Sexual Abuse and Harassment, pages 27 – 28 state, “Annual Site Report: Each facility shall utilize information from the offender sexual abuse debriefings to prepare an annual report to be submitted to the department’s PREA coordinator by the last working day in March. The report shall include: (1) identified problem areas, (2) recommendations for improvement, (3) corrective action taken, (4) if recommendations for improvements were not implemented, reasons for not doing so, (5) a comparison of the current year’s data and corrective actions with those from prior years, and an assessment of the facilities’ progress in addressing sexual abuse, (6) an evaluation of the need for camera and monitoring systems, (7) in consultation with the PREA site coordinator; assessment, determination, and documentation of whether adjustments are needed to the:

- (A ) the staffing plan,
- (B) the deployment of video monitors, and
- (C) the resource availability to adhere to the staffing plan.

The yearly report shall be submitted to the division director and the department PREA coordinator no later than the last working day in March.

Agency Report: The PREA coordinator shall prepare an annual report compiling each facility’s current year’s data and corrective actions. The report shall include: (1) a comparison with prior year’s data, (2) corrective actions, and (3) an assessment of the department’s progress in addressing offender sexual abuse. The report shall be forwarded to the department director for approval by the last working day in May.

Auditor reviewed the statewide annual report as well as the report as it relates specifically to BCC.

Auditor reviewed the 2015 PREA breakdowns for each facility in the MDOC.

Auditor reviewed the MDOC 2015 PREA Annual Report. This report contained information on the progress the department made in 2014 in PREA, a trend analysis of all investigations in the state and correction actions for each facility. This report is also published on the MDOC website at <http://doc.mo.gov./OD/PREA/php>.

**115.88(d)** SOPD1-8.13 Offender Sexual Abuse and Harassment also states, “The COA or designee, PREA coordinator, and/or department director shall edit specific material from the reports when publication would present clear and specific threat to the safety and security of the facility. The CAO or designee, PREA coordinator, and/or department director shall indicate the nature of the material edited. The department’s annual PREA report shall be made available to the public on the department’s internet website.”

### **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.**

**115.89(a)** The Site Coordinator keeps all investigations, data tracking forms, monthly statistic reports secured in a locked file cabinet.

**115.89(b)** SOPD1-8.13 Offender Sexual Abuse and Harassment, page 28 states, "The department's annual PREA report shall be made available to the public on the department's internet website."

Auditor reviewed the MDOC 2015 PREA Annual Report. This report contained information on the progress the department made in 2015 in PREA, a trend analysis of all investigations in the state and correction actions for each facility. This report is also published on the MDOC website at <http://doc.mo.gov/OD/PREA/php>.

**115.89(c)** SOPD1-8.13 Offender Sexual Abuse and Harassment also states, "The COA or designee, PREA coordinator, and/or department director shall edit specific material from the reports when publication would present clear and specific threat to the safety and security of the facility. The CAO or designee, PREA coordinator, and/or department director shall indicate the nature of the material edited. The department's annual PREA report shall be made available to the public on the department's internet website."

**115.88(d)** According to the Agency Records Disposition Schedule (Inspector General Section), this information is retained for five years, and then it is destroyed.

#### **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.

/s/ Elisabeth M. Copeland

03/15/2017

Auditor Signature

Date