

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



<b>Name of facility:</b>	Sussex II State Prison		
<b>Physical address:</b>	24427 Musselwhite Drive Waverly, VA 23891-2222		
<b>Date report submitted:</b>	December 1, 2015		
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<b>Date of facility visit:</b>	November 2-3, 2015		
<b>Facility Information</b>			
<b>Facility mailing address: (if different from above)</b>			
<b>Telephone number:</b>	804-834-4050		
<b>The facility is:</b>	<input type="checkbox"/> Military	County	Federal
	<input type="checkbox"/> Private for profit		<b>X</b> State
	<input type="checkbox"/> Private not for profit		
<b>Facility Type:</b>	<input type="checkbox"/> Jail	<input checked="" type="checkbox"/> Prison	
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<b>Agency Information</b>			
<b>Name of agency:</b>	Virginia Department of Corrections		
<b>Governing authority or parent agency: (if applicable)</b>	Virginia Department of Corrections		

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## AUDIT FINDINGS

### NARRATIVE:

A Prison Rape Elimination Act Audit of Sussex II State Prison was conducted from November 2, 2015 to November 3, 2015. The purpose of the audit was to determine compliance with the Prison Rape Elimination Act standards which became effective August 20, 2012.

An entrance meeting was held with the following persons: Wendall Pixley-Warden, Mack Bailey-Assistant Warden, A. Jones- Major, R. Wallace- Chief of Housing and Programs, S. Adams-Institutional Programs Manager, T. Birckhead- Operations Manager and PREA Compliance Manager, W. Rollins- HU Manager #1, J. Mills- HU Manager #2, B. Perkins- HU Manager #3, G. Pugh- HU Manager #4, Captain E. Hawkins- Watch Commander, L. Wells- Executive Secretary, Rose Durbin-PREA/ADA Supervisor, and Lawanda Long-PREA Analyst.

The auditor wishes to extend its appreciation to Warden Wendall Pixley and his staff for the professionalism they demonstrated throughout the audit and their willingness to comply with all requests and recommendations made by the auditor.

The auditor would also like to recognize PREA Coordinator Elisabeth Thornton, PREA/ADA Supervisor Rose Durbin, PREA Analyst Lawanda Long, and PREA Compliance Manager Teresa Birckhead for their hard work and dedication to ensure the facility is compliant with all PREA standards.

After the entrance meeting, the auditor was given a tour of all areas of the facility, including; all general population housing units, Restrictive Housing Unit, academic building, visitation, multipurpose rooms, offender library, GED classroom, law library, gymnasium, infirmary/medical, support control, intelligence office, staff dining, kitchen, inmate dining, laundry, commissary, graphic arts, and industrial laundry. During the tour, several informal interviews were conducted with inmates and staff throughout the facility.

A total of 27 staff were interviewed with at least one staff member interviewed from each interview category, with the exception of the interviews related to the Agency Contract Administrator and non-medical staff involved in cross-gender searches (these interview types did not apply to this facility). Staff interviews were conducted on staff from both day and night shift (staff work 12 hour shifts).

A total of 17 inmates were interviewed with at least one inmate interviewed from each interview category, with the exception of inmates placed in segregated housing for risk of sexual victimization (these interview types did not apply to this facility).

Telephone interviews were conducted with the SAFE/SANE. The auditor was provided with the Agency Head and PREA Coordinator interview notes from another certified auditor who recently conducted audits for the agency. These responses were used for this audit.

The count on the first day of the audit was 1,254. The count on the final day of the audit was 1,250.

Throughout the pre-audit and onsite audit, open and positive communication was established between the auditor and facility staff. During this time, the auditor discussed his concerns with PREA/ADA Supervisor Rose Durbin, PREA Analyst Lawanda Long, and PREA Compliance Manager Teresa Birckhead.

When the audit was completed, the auditor conducted an exit briefing on November 3, 2015. The auditor gave an overview of the audit and thanked the staff for all their hard work and commitment to the Prison Rape Elimination Act.

**DESCRIPTION OF FACILITY CHARACTERISTICS:**

The Mission of Sussex II State Prison is to enhance the quality of life in the Commonwealth by improving public safety. They accomplish this through reintegration of sentenced men in their custody and care by providing supervision and control, effective programs and re-entry services in safe environments which foster positive change and growth consistent with sound correctional principles, fiscal responsibility, and constitutional standards.

Sussex II State Prison houses offenders who have long-term sentences or have demonstrated disruptive behavior at lower security levels. An offender cannot have any disruptive behavior for at least the past 24 months prior to be considered for a transfer to any less-secure facility.

In January 2008, Sussex II State Prison implemented Evidence Based Practices. Based on the various principles of Evidence Based Practices, this facility is seeking to follow the body of research which has found that certain practices are more effective at encouraging pro-social behaviors and reducing recidivism. The goal is to create a safer, positive environment for staff and offenders and to reduce the likelihood of future criminal behavior.

Sussex II State Prison has eight outdoor recreation yards for general population and one for youthful offenders. Each yard encompasses approximately 20,000 square feet. Outdoor recreation for special housing offenders is staged behind the special housing unit in a secure yard. This secured area is approximately 1,370 square feet. For indoor recreation, the institution is equipped with a 6,000 square foot gymnasium.

Special housing recreation is accomplished by use of secured yards located directly off the building's dayroom. Each yard contains several individual runs for offender recreation. These runs are fenced in from all sides, and allow the offenders to have recreation without physical contact with each other.

Special housing offenders receive meals in their cells. Offenders assigned to this unit have shown that they are not able to follow institutional rules and regulations or have been predators on other offenders or staff. As such they follow a very strict schedule and are separated from the rest of the population.

In addition to recreational activity, Sussex II provides general population offenders the opportunity to have jobs within the facility. These assignments include kitchen, laundry and housekeeping. Offender schedules are adjusted to meet their work schedule.

Offenders are also allowed visitation on weekends and state holidays. Located in the eastern corner of the support building is the main visitation room. This area provides ample space for contact visiting privileges. Offenders must change into specially colored jumpsuits to enter the main visitation room.

Non-contact visitation is conducted using video visitation, with one visitation module in the administration building and the other module in the special housing unit (3B Pod).

All general population, transition, and special housing cells have individual sleeping surfaces with mattresses. These cells also include a built in writing desk and a second shelf for personal items. Flame retardant boxes are provided for storage of personal items. Each cell at Sussex II is approximately 73 square feet, with a 1:2 Ratio of hand washing and toilet facilities and 1:1 ratio for each special housing cell. Subtracting all areas encumbered by toilet fixtures, bunks, desk, shelves leaves 41 square feet of available area. This holds true for general population, transition, special housing and ADA compliant cells. Each cell; excluding those within the infirmary area are equipped with 4.5" x 48" (216 square inches) windows.

All general population, transition, and special housing cells have toilet/sink combo units installed in them. Several of the medical cells have complete access to their respective toilets and sinks except for the two mental health observation cells. These two require staff assistance to gain access to these facilities. Each special housing cell is single bunked and possesses all the other accessories as the general population cells, i.e., window to the outside, window to the dayroom, intercom, electrical outlets, cable outlet, desk, shelf, toilet/sink combo, bunk with mattress.

Each general population dayroom is equipped with six shower stalls. Showers in special housing and medical are offered at least three times weekly in a secure shower. To ensure the safety of both staff and offenders, hot water temperatures are regulated by use of a thermostatically controlled mixing valve to a temperature of 110 degrees. In compliance with the 1993 BOCA National Plumbing Code, shower stalls shall be provided on the basis of 1 per 15 users.

Sussex II State Prison is equipped with two 2,200 square foot dining halls. Each dining hall has sufficient seating for 88+ offenders. Drinks and condiments are made available at each dining hall.

Sussex II State Prison was designed and built in compliance with the Americans with Disabilities Act of 1990. All areas of the institution in which offenders are allowed access are considered ADA compliant. 40 cells located on the lower tier of the housing units are equipped per ADA standards. Square footage within the ADA compliant cells is the same as those within other areas.

Located within the support building is the laundry department with a clothing/linen storage room. This room provides for ample storage for clean linen and clothing articles. In August 2012, Virginia Correctional Enterprise opened its laundry division at Sussex II and started providing laundry services for most of the Virginia correctional institutions in the Eastern region.

The Support Building is divided into several distinct areas depicting the specific function performed in that area, i.e., Security, Medical, Visitation, Treatment, Food Service, and Educational Hall.

Total Number of Cells: 718

Maximum Occupancy Load: 1,302

Site Property: 560 acres

**SUMMARY OF AUDIT FINDINGS:**

Number of standards exceeded:	4
Number of standards met:	38
Number of standards not met:	0
Not Applicable:	1

**§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)

Operating Procedure 130.1 states the Department of Corrections has zero tolerance for all forms of sexual abuse and sexual harassment. This procedure defines prohibited behaviors regarding sexual assault and sexual harassment, and includes sanctions for those found to have participated in prohibited behaviors.

Operating Procedure 038.3 states the DOC prohibits and will not tolerate any fraternization or sexual misconduct by staff, contractors, or volunteers with offenders, or between offenders as defined in this operation procedure. The DOC actively works to prevent, detect, report, and respond to any violation. This procedure also provides information on preventing, detecting, and responding to such conduct, and also includes definitions of prohibited behaviors regarding sexual assault and sexual harassment.

Both the PREA Coordinator and PREA Compliance Manager acknowledge they have sufficient time to manage their PREA Responsibilities.

The Agency has divided up the state into three regions and has assigned a PREA Analyst to each region to assist with PREA Compliance.

During the onsite audit, the auditor discovered the agency has sent six staff to the Department of Justice Auditor training. The auditor was advised this is an example of the agency's commitment to the Prison Rape Elimination Act.

**§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)

Operating Procedure 038.3 states through contracts and Board of Corrections operating standards, facilities and jails that contract for the confinement of DOC offenders shall include in any new contract or contract renewal the entity's obligation to adopt and comply with the PREA standards. Any new contract or contract renewal shall provide for agency contract monitoring to ensure that the contractor is complying with the PREA standards.

Operating Procedure 260.1 states all contracts for the confinement of DOC offenders shall include in any new contract or contract renewal the entity's obligation to adopt and comply with the PREA standards. Any new contract or contract renewal shall provide for agency contract monitoring to ensure that the contractor is complying with the PREA standards.

The agency has entered into or renewed one contract for the confinement of inmates on or after August 20, 2012. This contract was with Lawrenceville Correctional Center (2015). The auditor reviewed a copy of the contract and discovered language requiring Lawrenceville Correctional Center (GEO) to adopt and comply with the Federal Prison Rape Elimination Act.

### **§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)

Operating Procedure 401.2 states each facility shall develop, document, and make its best efforts to comply on a regular basis with a staffing plan that provides for adequate levels of staffing, and, where applicable, video monitoring, to protect offenders against sexual abuse. In calculating adequate staffing levels and determining the need for video monitoring, facilities shall take into consideration:

- a. Generally accepted detention and correctional practices
- b. Any judicial findings of inadequacy
- c. Any findings of inadequacy from Federal investigative agencies
- d. Any findings of inadequacy from internal or external oversight bodies

- e. All components of the facility's physical plant (including "blind-spots" or areas where staff or offenders may be isolated)
- f. The composition of the offender population
- g. The number and placement of supervisory staff
- h. Institution programs occurring on a particular shift
- I. Any applicable State or local laws, regulations, or standards
- j. The prevalence of substantiated and unsubstantiated incidents of sexual abuse
- k. Any other relevant factors

In circumstances where the staffing plan is not complied with, the facility shall document and justify all deviations from the plan. During the pre-audit, the auditor was advised the facility has deviated from the staffing plan in the past; however, those positions deemed to be key posts, were never closed.

By January 31 of each year and more frequently if needed, each facility shall review any existing staffing plan and post audits.

a. This review shall assess, determine, and document whether adjustments are needed to:

- i. The facility's established staffing plan
- ii. The facility's deployment of video monitoring systems and other monitoring technologies
- iii. The resources the facility has available to commit to ensure adherence to the staffing plan

b. If the review indicates that the facility is not staffing to plan or staffing to post audits, the facility must provide a comprehensive written explanation as to why they are not able to staff to post audits and possible solutions to increase facility staffing levels

c. These comprehensive written explanations shall be provided to the Regional Operations Chief for review and forwarded to the Regional PREA Analyst

During the pre-audit, the auditor was provided with a copy of three detailed staffing plans. The most recent staffing plan was dated September 10, 2015.

Since August 20, 2012, the average daily number of inmates was 1,258.

Since August 20, 2012, the average daily number of inmates on which the staffing plan was predicated was 1,282.

Operating Procedure 401.3 states ADO's conduct and document unannounced rounds to identify and deter staff sexual abuse and sexual harassment. Unannounced rounds should be made intermittently during the month.

Operating Procedure 401.1 states Post Orders shall require that Lieutenants and above conduct and document unannounced rounds to identify and deter staff sexual abuse and sexual harassment.

a. Supervisors are prohibited from notifying staff of unannounced rounds

Unannounced intermediate and upper-level supervisor rounds occur on all three shifts and are completely random. They are logged in the log books located in the control room of each housing unit.

During the pre-audit, the auditor was provided with, and reviewed, a sample of unannounced rounds by supervisors. The documentation of unannounced rounds showed they have occurred on all three shifts.

Staff interviews indicate the facility has a staffing plan they review annually in order to determine the minimum number of required staff. Video monitoring is a part of this plan. The Warden, Assistant Warden, and Major all have a copy of the staffing plan. All required staffing plan guidelines under 115.13 are a part of the facility's staffing plan. The Warden checks for compliance with the staffing plan by reviewing the daily duty roster and observing these areas to make sure staff are assigned there. The Warden can also review the staffing report which is a part of the supervisor's daily shift briefing report. In the event a staff member calls in, another staff member would be drafted from the overtime list to fill this position. The staffing plan is developed at the facility level. External auditors tour the facility and review the facility's staffing plan. Recommendations are forwarded to the PREA Analyst and PREA Coordinator for their review. Staffing plans are reviewed annually, or whenever the need is identified.

#### **§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)

Operating Procedure 038.3 and 425.4 state a youthful inmate shall not be placed in a housing unit in which the youthful inmate will have sight, sound, or physical contact with any adult inmate through use of a shared dayroom or other common space, shower area, or sleeping quarters. DOC provides specialized housing arrangements for youthful inmates to meet the requirements of this standard. Exigent circumstances may require removal to a special housing unit.

During the onsite audit, there were 10 youthful inmates housed at Sussex II State Prison.

In the past 12 months, there has been one housing unit to which youthful inmates are assigned that provide sight and sound separation between youthful and adult offenders in dayrooms, common areas, showers, and sleeping quarters. This housing unit is HU5.

In the past 12 months, there have not been any youthful inmates placed in the same housing unit as adults at this facility.

The facility maintains sight, sound, and physical separation between youthful inmates and adult inmates in areas outside housing units.

The agency always provides direct staff supervision in areas outside housing units where youthful inmates have sight, sound, or physical contact with adult inmates.

The facility documents the exigent circumstances for each instance in which youthful inmates' access large-muscle exercise, legally required education services, and other programs and work opportunities were denied.

The school division is responsible for the educational programs of all incarcerated individuals in the state correctional system. At Sussex II State Prison, HU5 offenders will have academic instruction provided by an instructor on the pod.

In the past 12 months, there have not been any youthful inmates who have been placed in isolation in order to separate them from the adult inmates.

Interviews with youthful inmates indicate youthful inmates are placed in HU5 which is completely separate from all other housing units. These inmates stated they never have any direct contact with, see, or communicate with adult inmates. A recreation yard, designated for youthful inmates, is connected to the HU5. Whenever youthful offenders leave the housing area, they are escorted by staff.

Staff interviews indicate youthful inmates have access to the same programs as the adult inmates; however, the youthful inmate programs occur on HU5, which is separate from the adult inmates.

## §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)

Operation Procedure 445.1 prohibits cross-gender strip or cross-gender visual body cavity searches absent exigent circumstances. Policy requires all cross-gender strip-searches and cross-gender visual body cavity searches be documented.

In the past 12 months, there have not been any cross-gender strip or cross-gender body cavity searches of inmates.

In the past 12 months, there have not been any cross-gender strip or cross-gender visual body cavity searches of inmates that did not involve exigent circumstances or were performed by non-medical staff.

Female inmates are not housed at Sussex II State Prison.

Operating Procedure 401.2 states officers of the opposite gender should be allowed to supervise offender housing areas, with appropriate physical modifications made to toilet and shower areas to provide a reasonable degree of offender privacy. Facility procedures and practices shall enable offenders to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks. Staff of the opposite gender shall announce their presence when entering an offender housing unit. These announcements shall be documented in the log book.

During the pre-audit, the auditor was provided with a sample of logs showing female staff are documenting their announcement of female on the pod.

Operating Procedure 445.1 states a transgender or intersex offender shall not be searched or physically examined for the sole purpose of determining the offender's genital status. If the offender's genital status is unknown, it may be determined through conversation with the offender, a review of the medical record, or if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner. No such searches have occurred in the past 12 months.

Operating Procedure 350.2 states all new Corrections Officers (and any other offender care workers at Detention/Diversion Centers) receive at least 120 hours of training (in addition to orientation) during their first year of employment. This training includes cross gender frisk searches and searches of transgender and intersex offenders in a professional and respectful manner and in the least intrusive manner possible consistent with security needs.

During the pre-audit, the auditor was advised 100% of all security staff have received training on conducting cross-gender pat-down searches and searches of transgender and intersex inmates in a professional and respectful manner, consistent with security needs. The auditor was advised staff went over the agency search policy during muster. The auditor was provided with a sample of training logs.

Staff interviews indicate female security staff announce their presence at the beginning of their shift. In addition, an announcement is made anytime non-security female staff enter the housing unit.

Staff interviews indicate they were recently trained on how to conduct cross-gender pat-down searches and searches of transgender/intersex inmates. Whenever a female staff enter a housing unit, an announcement of their presence is made prior to entering. This is also logged in the log book located in the control room of the housing unit. Inmates are never viewed by female staff while in a state of undress.

Inmate interviews indicate female staff announce their presence prior to entering the housing unit. Inmates also stated they are never viewed by female staff while in a state of undress.

During the onsite tour, the auditor observed the announcement of female staff being made prior to entering the housing units. The auditor also observed dayroom toilets had been sealed to prevent cross gender viewing of inmates using the restroom in the dayroom area. Inmates are now required to use the restroom in their cells.

**§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)

Operating Procedure 038.3 has specific language for offenders with disabilities and offenders who are limited English proficient. Policy states the DOC shall take appropriate steps to ensure that offenders with disabilities (including, for example, offenders who are deaf or hard of hearing, those who are blind or have low vision, or those who have intellectual, psychiatric, or speech disabilities), have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment. Such steps shall include, when necessary to ensure effective communication with offenders who are deaf or hard of hearing, providing access to interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary. The DOC shall ensure that written materials are provided in formats or through methods that ensure effective communication with offenders with disabilities, including offenders who have intellectual disabilities, limited reading skills, or who are blind or have low vision. The DOC is not required to take actions that it can demonstrate would result in a fundamental alteration in the nature of service, program, or activity, or in undue financial and administrative burdens, as those terms are used in regulations promulgated under title II of the Americans with Disabilities Act, 28 CFR 35.164. The DOC shall take reasonable steps to ensure meaningful access to all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment to offenders who are limited English proficient, including steps to provide interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary. The DOC shall not rely on offender interpreters, offender readers, or other types of offender assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the offender's safety, the performance of first-response duties, or the investigation of the offender's allegations.

During the pre-audit, the auditor was provided with a copy of a contract with Purple Language Services, Co. for sign language translation and video remote interpreting. This contract was dated February 10, 2015, and expires on April 30, 2016.

During the pre-audit, the auditor was provided with sexual assault awareness brochures in English and Spanish, as well as a brochure for the hearing impaired. The auditor was also provided with education transcribed in braille.

In the past 12 months, there have not been any instances where inmate interpreters, readers, or other types of inmate assistants have been used and it was not the case that an extended delay in obtaining another interpreter could compromise the resident's safety, the performance of first-response duties under 115.64, or the investigation of the resident's allegations.

During the onsite audit, the auditor conducted an interview with a Spanish speaking inmate, using the language line service.

Staff interviews indicate hearing impaired inmates are housed at Powhatan Correctional Center and inmates who are vision impaired are housed at Deerfield Correctional Center. Several facilities within the agency have mental health units to accommodate inmates with mental disabilities. Staff were also aware of the agency policy prohibiting the use of inmate interpreters whenever an inmate alleges sexual abuse.

### **§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)

Operating Procedure 101.8 states the DOC shall not hire or promote anyone who may have contact with offenders, and shall not enlist services of any contractor who may have contact with offenders who:

- a. Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997).
- b. Has been civilly or administratively adjudicated to have engaged or has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, over or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse.

The DOC shall consider any incidents of sexual harassment in determining whether to hire or promote anyone, or to enlist the services of any contractor, who may have contact with offenders.

Before hiring new employees who may have contact with offenders, the DOC shall:

- a. Perform a criminal background records check
- b. Consistent with Federal, State, and local law, make its best efforts to contact all prior institutional employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse.

In the past 12 months, there have been 61 of 61 persons hired who may have contact with inmates who have had criminal background records checks. This equates to 100% of all persons hired within the last 12 months.

DOC shall perform a criminal background records check before enlisting the services of any contractor who may have contact with offenders.

In the past 12 months, there have been 7 contracts for services where criminal background record checks were conducted on all staff covered in the contract who might have contact with inmates. This equates to 100% of all contracts.

Material omissions regarding misconduct, or the provision of materially false information, shall be grounds for termination.

The DOC shall conduct criminal background records checks at least every 5 years of current employees and contractors. A criminal background record check will be conducted annually for sensitive specialist assignments. The Human Resources Officer for each organizational unit shall ensure criminal background record checks are conducted and documented as required. The Human Resources Officer shall document in the Access Employee Database that the criminal records check (VCIN) was conducted.

Staff interviews indicate criminal background checks are conducted on both security staff as well as contractors and volunteers. Past incidents of sexual abuse and sexual harassment are considered when determining whether or not to hire or promote an employee. All applicants are checked using the State database as well as NCIC. PREA questions are asked as a part of the application as well as during any promotional process. The facility imposes upon employees a continuing affirmative duty to disclose any such previous misconduct. Whenever a former employee applies for work at another institution, the facility would provide information on substantiated allegations of sexual abuse and sexual harassment involving the former employee.

### **§115.18 - Upgrades to Facilities and Technology**

- 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)

Operating Procedure 801.1 states the effect of the facility's design, acquisition, expansion or modification on the facility's ability to protect the offender from sexual abuse shall be taken into consideration when designing or acquiring any new facility and in planning

any substantial expansion or modification to an existing facility. For new installations or updates to existing video monitoring systems, electronic surveillance systems or other monitoring technologies, the facility shall take into consideration how such technology may enhance their ability to protect offenders from sexual abuse.

During the pre-audit, the auditor was advised the agency/facility has not acquired any new facilities or made any substantial expansions or modifications of existing facilities since August 20, 2012.

During the pre-audit, the auditor was advised the agency/facility has not installed or updated a video monitoring system, electronic surveillance system, or other monitoring technology since August 20, 2012.

### **§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)

The agency/facility is responsible for conducting administrative or criminal sexual abuse investigations (including inmate-on-inmate sexual abuse or staff sexual misconduct).

Operating Procedure 030.4 is the agency procedure for evidence protocol and forensic medical examinations. Policy states SIU has an established uniform evidence protocol which maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions. The established protocol is developmentally appropriate for youth and is based on or similar to other comprehensive and authoritative protocols developed after 2011. If requested by the victim, the victim advocate, qualified agency staff member, or qualified community-based organization staff member shall accompany and support the victim through the forensic medical examination process and investigatory interview.

During the pre-audit, the auditor was provided with documentation showing the agency has four separate forensic examination providers available in the Eastern Region.

Operating Procedure 720.7 states if evidentiary or medically appropriate, victims of sexual assault are referred under appropriate security provisions to a community facility for treatment and gathering of evidence. A history is taken by a health care professional who will conduct a forensic medical examination to document the extent of physical injury. Such examinations shall be performed by Sexual Assault Forensic Examiners

(SAFEs) or Sexual Assault Nurse Examiners (SANEs) where possible. There will be no financial cost to the offender for this examination. As requested by the victim, the victim advocate, qualified agency staff member, or qualified community-based organization staff member shall accompany and support the victim through the forensic medical examination process and investigatory interviews and shall provide emotional support, crisis intervention, information, and referrals. A qualified DOC Mental Health/counseling staff member or a qualified community-based staff member shall be an individual who has been screen for appropriateness to serve in this role and has received education concerning sexual assault and forensic examination issues in general. With the victim's consent, the examination includes the collection of evidence from the victim, using a kit approved by the appropriate authority (PERK kit recommended). Although it is recommended that a PERK kit be collected within 72 hours, it should be beyond that time whenever there is possibility of evidence remaining. If the offender alleging assault refuses to be examined, it shall be documented in the Health Record and the offender shall sign a Health Services Consent to Treatment; Refusal 720\_F3. If SAFEs or SANEs cannot be made available, the examination can be performed by other qualified medical practitioners.

During the pre-audit, the auditor was provided with documentation showing the agency has an existing MOU with Virginia Sexual & Domestic Violence Action Alliance to provide support services to victims of sexual abuse.

During the pre-audit, the auditor was provided with documentation for 12 separate volunteer victim advocates that are available in the Eastern Region.

During the pre-audit, the auditor was provided with a list of local contacts who would be capable of providing SAFE/SANE services. The auditor contacted one of the contacts, VCU Health in Richmond, VA, and was advised they would be able to conduct forensic examinations for Sussex II State Prison. The auditor was advised the hospital has contracts with nine separate forensic examiners. The forensic examiners rotate on call and someone is always available to conduct such examinations.

During the past 12 months, there has been one forensic medical examination conducted. This examination was conducted by a SAFE/SANE.

Random staff indicate staff are aware of how to collect usable, physical evidence and know who is responsible for conducting sexual abuse investigations. Staff indicate victim advocate services would be provided by Virginia Sexual & Domestic Violence Action Alliance or by staff member trained in providing these services.

### **§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)

Operating Procedure 030.4 states the SIU is responsible for conducting administrative and/or criminal investigations into allegations of sexual abuse or sexual harassment in DOC facilities as outlined in this procedure. The SIU is responsible for conducting investigations on all incidents of sexual abuse and sexual harassment.

During the past 12 months, there have been 41 allegations of sexual abuse and sexual harassment that were received.

During the past 12 months, there have been 41 allegations resulting in an administrative investigation.

During the past 12 months, there have been three allegations referred for criminal investigation.

Referring to allegations received during the past 12 months, two investigations are still pending.

Operating Procedure 038.3 states an administrative or criminal investigation conducted in accordance with PREA standards shall become completed for all allegations of sexual abuse and sexual harassment. Initial investigation may be conducted by the facility investigator. Unless it is quickly and definitively determined that the allegation is unfounded, allegations of sexual abuse or sexual harassment shall be referred for investigation to the DOC Special Investigations Unit (SIU). The facility shall document all such referrals. The SIU shall conduct investigations into criminal behavior, procedural or administrative violations, or employee misconduct affecting the operations of the DOC. The Chief of Special Investigations Unit or a designee shall review the nature of the allegations received to determine if an investigation is warranted. Upon notification of an allegation of sexual abuse or misconduct, investigative staff shall follow Operating Procedure 030.4, Special Investigations Unit.

During the pre-audit, the auditor located the policy stating referrals of allegations of sexual abuse or sexual harassment for criminal investigation on the agency website (<https://vadoc.virginia.gov/about/procedures/documents/030/038-3.pdf>).

Staff interviews indicate the DOC has a Special Investigation Unit (SIU) with law enforcement authority to investigate crimes in facilities within the DOC. Institutional

Investigators handle administrative investigations at the facility. When an allegation is received, the warden of the facility, the institutional investigator, and the PREA Analyst are notified. If the allegation is criminal in nature, SIU would also be notified. Staff would ensure the victim is protected and all protocols are instituted. Any allegation received from another agency is processed the same way. If an allegation is received that happened at another agency, the DOC reports these allegations to the respective authority.

### **§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)

Operating Procedure 160.1 outlines orientation training for new employees. Policy states PREA Orientation will consist of the following:

- a. Its zero-tolerance policy for sexual abuse and sexual harassment.
- b. How to fulfill their responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures.
- c. Offenders' rights to be free from sexual abuse and sexual harassment
- d. The right of offenders and employees to be free from retaliation for reporting sexual abuse and sexual harassment.
- e. The dynamics of sexual abuse and sexual harassment in confinement.
- f. The common reactions of sexual abuse and sexual harassment victims.
- g. How to detect and respond to signs of threatened and actual sexual abuse.
- h. How to avoid inappropriate relationships with offenders.
- i. How to communicate effectively and professionally with offenders, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming offenders, and
- j. How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities.

Such training shall be tailored to the gender of the offenders at the employee's facility. The employee shall receive additional training if the employee is reassigned from a facility that houses only male offenders to a facility that houses only female offenders, or vice versa. The agency shall document through employee signature or electronic verification that employees understand the training they have received.

There have been 326 staff employed by the facility, who may have contact with inmates, who were trained or retrained on the PREA requirements enumerated above.

Staff training is conducted annually.

During the pre-audit, the auditor was provided with copies of the agency's PREA curriculum, training logs, certificates of completion, training acknowledgement forms. The training curriculum meets all requirements under 115.31 (a)-1.

Random staff interviews indicate staff have received the training required under 115.31.

### **§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)

Operating Procedure 027.1 states the Volunteer Coordinator shall ensure that all volunteers who have contact with offenders have been trained on their responsibilities under the DOC sexual abuse and sexual harassment prevention, detection, and response policies and procedures. The level and type of training provided to volunteers shall be based on the services they provide and level of contact they have with offenders, but all volunteers who have contact with offenders have been trained on their responsibilities under the DOC sexual abuse and sexual harassment prevention, detection, and response policies and procedures. The level and type of training provided to volunteers shall be based on the services they provide and level of contact they have with offenders, but all volunteers who have contact with offenders shall be notified of the DOC's zero-tolerance policy regarding sexual abuse and sexual harassment and informed how to report such incidents. A briefing on security procedures, privacy laws, chain of command, basic knowledge of criminal behavior, and other related topics, as pertinent and applicable. Completion of orientation/training will be documented by the volunteer's signature on the Rules for Volunteers.

During the pre-audit, the auditor was provided with a copy of a memo from the PREA Coordinator, dated October 17, 2012. The memo outlines three distinct levels for contractors and volunteers, and they mandated PREA training required for each level.

There have been 120 volunteers and individual contractors, who have contact with inmates trained on their responsibilities under the agency's policies and procedures regarding sexual abuse/harassment prevention, detection, and response.

All volunteers and contractors who have contact with inmates have been notified of the agency's zero-tolerance policy regarding sexual abuse and sexual harassment and have been informed on how to report such incidents.

During the pre-audit, the auditor was provided with sample documentation confirming that the volunteers/contractors understand the training they have received.

Volunteer/Contractor interviews indicate volunteers and contractors receive training on their responsibilities regarding sexual abuse and sexual harassment prevention, detection, and response, per agency policies and procedures. Training is provided through videos and staff meetings. Volunteers and contractors are required to sign an acknowledgement sheet confirming they understand the information they received.

### **§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)

Operating Procedure 038.3 states when an offender enters a DOC facility from a jail, the offender shall receive information explaining the DOC's zero-tolerance policy for sexual abuse and sexual harassment and instruction on how to report incidents or suspicions of sexual abuse or sexual harassment. This information shall be communicated verbally and in writing, in language clearly understood by the offender. Immediately upon intake to DOC, the offender shall receive an initial PREA training, utilizing the Preventing Sexual Abuse & Sexual Assault-Trainer Outline-Intake. The offender will watch Section 1 of the PREA: What You Need to Know video and a copy of the Sexual Assault Awareness and Prevention brochure that includes the Sexual Assault Hotline number. Within 10 days of arrival, the offender shall receive comprehensive PREA training, utilizing the Preventing Sexual Abuse & Sexual Assault-Trainer Outline- including use of videos PREA: What You Need to Know and Breaking the Silence of Offender Sexual Abuse. Facilities shall make

arrangements for offenders that speak languages other than English or Spanish, and with offenders who are deaf, visually impaired, or otherwise disabled, as well as to offenders with limited reading skills, to receive training and materials in a language understood by the offender. The offender shall document receiving the Sexual Assault Awareness and Prevention brochure and both of the Preventing Sexual Abuse and Sexual Assault Trainings (Intake and Comprehensive) by signing the Acknowledgement of Preventing Sexual Abuse and Sexual Assault Training. The signed acknowledgement will be placed in the offender's Institutional Record. It is mandatory that offenders attend both trainings. Offenders refusing shall be charged with Offense Code 200, per Operating Procedure 861.1, Offender Discipline, Institutions.

Information shall include the following topics; definition of sexual misconduct/assault, and behaviors prohibited by staff, contractors, volunteers and offenders, DOC Zero-Tolerance Policy, Prevention, self-protection, reporting sexual abuse/assault, treatment and counseling, offender telephone sexual abuse Hotline Number #55.

Operating Procedure 810.2 states an offender received from another DOC facility via transfer will be provided a copy of the Sexual Assault Awareness and Prevention brochure that includes the Sexual Assault Hotline number.

In addition to providing such education, each facility shall ensure that key information is continuously and readily available or visible to offenders through posters, offender handbooks, or other written formats.

There were 342 inmates admitted during the past 12 months who were given this information at intake.

There were 342 inmates during the past 12 months (whose length of stay in the facility was for 30 days or more) who received comprehensive education on their rights to be free from both sexual abuse/sexual harassment and retaliation for reporting such incidents and on agency policies and procedures for responding to such incidents within 30 days of intake.

Of those who were not educated during the first 30 days of intake, all inmates have been educated subsequently.

During the pre-audit, the auditor was provided with sample documentation of inmates signing for their receipt of the PREA brochure.

Staff interviews indicate inmates are provided with information about the zero-tolerance policy and how to report incidents or suspicions of sexual abuse or harassment. This information is provided in a brochure and given to all inmates immediately upon intake. The intake officer will read this information to the inmates during intake. Inmates are

required to sign for receipt of this information. Also, counselors show PREA informational videos to the inmates typically within a few days of intake.

Inmate interviews indicate inmates receive information about the facility's rules against sexual abuse and sexual harassment through brochures they receive during intake. Within 30 days of intake, inmates receive comprehensive education via a PREA video.

### **§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)

Operating Procedure 030.4 states sexual abuse and sexual harassment investigations shall only be conducted by SIU investigators who have received special training in sexual abuse investigations. In addition to the general PREA training provided to all employees, investigators shall receive specialized training in conducting sexual abuse investigations in confinement settings. Specialized training shall include: techniques for interviewing sexual abuse victims, proper use of Miranda and Garrity warnings, sexual abuse evidence collection in confinement settings, criteria and evidence required to substantiate a case for administrative action or prosecution referral. The PREA Compliance Manager shall maintain documentation that the required specialized training in conducting sexual abuse investigations has been completed by the investigators.

During the pre-audit, the auditor was provided with a copy of the training curriculum which was created by the Moss Group. The training curriculum was reviewed and determined to meet the requirements under 115.34.

There are three investigators currently employed and working within the facility who have completed the required training.

Investigative staff interviews indicate investigative staff are trained in conducting sexual abuse investigations in confinement settings. Training topics include: techniques for interviewing sexual abuse victims, proper use of Miranda and Garrity warnings, sexual abuse evidence collection in confinement settings, and the criteria and evidence required to substantiate a case for administrative or prosecution referral.

### **§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)

Operating Procedure 160.1 states Prison Rape Elimination Act (PREA) training for medical and mental health care practitioners shall also receive the training mandated for employees or for contractors and volunteers depending upon the practitioner’s status in the DOC.

Operating Procedure 701.1 states the Health Authority and/or Institutional Training Officer shall document that all full and part-time medical and mental health staff who work regularly in DOC facilities receives specialized training in:

- a. How to detect and assess signs of sexual abuse and sexual harassment
- b. How to preserve physical evidence of sexual abuse
- c. How to respond effectively and professionally to victims of sexual abuse and sexual harassment.
- d. How and to whom to report allegations or suspicions of sexual abuse and sexual harassment.

There have been 37 medical and mental health care practitioners who work regularly at this facility and have received the training required by agency policy. This equates to 100% of all medical and mental health care practitioners.

Agency medical staff at this facility do not conduct forensic medical exams.

Medical and Mental Health staff interviews indicate all forensic examinations would be conducted by SAFEs/SANEs at VCU MCV Hospital in Richmond, VA. Medical and Mental Health staff acknowledged receiving specialized training regarding sexual abuse and sexual harassment. Training topics include: how to detect and assess signs of sexual abuse and sexual harassment, how to preserve physical evidence of sexual abuse, how to respond effectively and professionally to victims of sexual abuse and sexual harassment, and how and to whom to report allegations or suspicions of sexual abuse and sexual harassment.

**§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)

Operating Procedure 810.1 states a counselor or other non-clerical reception center staff shall assess all offenders during reception for their risk of being sexually abused by other offenders or sexually abusive toward other offenders. The assessment shall be completed and approved within 72 hours of arrival at the facility. Staff will interview and evaluate all incoming offenders for High Risk Sexual Aggressor (HRSA) and/or High Risk Sexual Victim (HRSV) tendencies utilizing the results of the Classification Assessment in VACORIS.

There have been 498 inmates entering the facility (either through intake or transfer) within the past 12 months (whose length of stay in the facility was for 72 hours or more) who were screened for risk of sexual victimization or risk of sexually abusing other inmates within 72 hours of their entry into the facility.

Operating Procedure 730.2 states an offender's risk level shall be reassessed when warranted due to a referral, request, incident of sexual abuse, or receipt of additional information that bears on the offender's risk of sexual victimization or abusiveness.

Operating Procedure 810.1 states offenders may not be disciplined for refusing to answer or for not disclosing complete information in response to questions asked in the Classification Assessment interview. Within 30 days from the offender's arrival at the facility, the facility will reassess the offender's risk of victimization or abusiveness based upon any additional, relevant information received by the facility since he intake screening.

Staff interviews indicate staff screen inmates upon admission or transfer to the facility for risk of sexual abuse victimization or sexual abusiveness toward other inmates. Screenings occur within 72 hours of intake. Risk screening includes, but is not limited to: prior victimization, stature of the inmate, whether or not the inmate feels vulnerable, whether or not they have committed any sexual abuse/harassment in the past, whether they consider themselves to be lesbian, gay, bisexual, transgender, intersex, or gender non-conforming, as well as the inmate's age. The screening instrument consists of yes or no questions. An inmate's risk level is reassessed as needed due to referral, request, incident of sexual abuse, or receipt of additional information that bears on the inmate's risk of sexual victimization or abusiveness. All inmates are reassessed within 30 days of their initial assessment as well as during their annual review. Inmates are not disciplined in any way for refusing to respond to, or for not disclosing complete information related to, risk screening questions. The agency has different levels of

access to this information. Counselors and mental health staff have higher access than other staff.

Random inmate interviews indicate inmates are screened within 72 hours of intake and again during their annual review. Inmates did not remember being screened 30 days after intake. After further discussion with the staff, it was discovered staff conduct an affirmative review of the inmate 30 days after intake, and if information is discovered to warrant an assessment with the screening instrument, the inmate will receive such assessment.

### **§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)

Operating Procedure 038.3 states the DOC shall use information from the offender risk screening to inform housing, bed, work, education, and program assignments with the goal of keeping separate those offenders at high risk of being sexually victimized from those at high risk of being sexually abusive. The DOC shall make individualized determinations about how to ensure the safety of each offender. Specialized decisions to provide specific individual accommodations to transgender or intersex offenders and offenders diagnosed by Mental Health staff with Gender Dysphoria shall be made by the Gender Dysphoria Committee. In deciding whether to assign a transgender or intersex offender to a facility for male or female offenders, and in making other housing and programming assignments, the agency shall consider on a case-by-case basis whether a placement would ensure the offender's health and safety, and whether the placement would present management or security problems.

Staff interviews indicate medical and mental health staff are made aware of any inmates who screen as victims as well as those screening as being abusive. Medical and mental health staff will conduct follow-up evaluations. Housing is determined based on the screenings with the goal of housing these two types of inmates separate from one another. These bunk assignments will typically be assigned closer to the control rooms for more direct observation by security staff. Transgender or intersex inmates' views with respect to his or her own safety are given serious consideration in placement and programming assignments.

### **§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)

Operating Procedure 810.1 states offenders identified as HRSV shall not be placed in Special Housing without their consent unless an assessment of all available alternatives has been made, and it has been determined by the QMHP, in consultation with the Shift Commander and Regional PREA Analyst, that there is no available alternative means of separation from likely abusers. If the Facility cannot conduct an assessment immediately, the Shift Commander may place the offender in Special Housing on General Detention for no more than 24-hours while completing the assessment. The facility must clearly document the basis for the facility's concern for the offender's safety and the reason why no alternative means of separation can be arranged.

During the pre-audit, the auditor was advised the facility has not placed any inmates at risk of sexual victimization in involuntary segregated housing.

Staff interviews indicate they would not place inmates at high risk for sexual victimization or who have alleged sexual abuse in involuntary segregated housing in lieu of other housing areas, unless an assessment has determined there are no available alternative means of separation from potential abusers. If an inmate was placed in involuntary segregated housing for this reason, they would only be housed there until alternative means of separation from likely abusers can be arranged. Staff indicated they have never had to use involuntary segregated housing for this reason.

### **§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)

Operating Procedure 038.3 states offenders shall have the opportunity to report sexual abuse and sexual harassment, retaliation by other offenders or staff for reporting sexual abuse and sexual harassment, and staff neglect or violation of responsibilities that may

have contributed to such incidents to any employee, and will not be required to report only to the immediate point-of-contact line officer. An offender may report such incidents to any employee, including chaplains, medical, mental health or counseling staff, security staff or administrators, by informing the employee in any manner available, e.g. verbally, through the offender telephone system Sexual Assault Hotline Number #55, or in writing using an Offender Request or Informal Complaint. An offender who is sexually assaulted shall immediately notify staff that a sexual assault has occurred. Staff shall accept reports made verbally, in writing, anonymously, and from third parties and shall promptly document any verbal reports. Offenders who observe, are involved in, or have any knowledge or suspicion of a sexual abuse or unauthorized relationship shall immediately notify staff. The agency shall also provide at least one way for offenders to report abuse or harassment to a public or private entity or office that is not part of the agency, and that is able to receive immediately forward offender reports of sexual abuse and sexual harassment to agency officials allowing the offender to remain anonymous upon request. The agency shall provide a method for staff to privately report sexual abuse and sexual harassment of offenders.

Operating Procedure 801.6 states the Offender Request is one internal way that offenders can privately report sexual abuse and sexual harassment, retaliation by other offenders or staff for reporting sexual abuse and sexual harassment, and staff neglect or violation of responsibilities that may have contributed to such incidents. Staff shall accept any report of PREA related issues submitted and immediately report any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment to the Facility Unit Head and facility PREA Compliance Manager. If applicable, an internal incident report checked PREA shall be submitted in accordance with Operating Procedure 038.1 Reporting Serious or Unusual Incidents.

Operating Procedure 803.3 states PREA/Sexual Abuse Hotline is available by dialing #55 at any time the offender telephones are available.

During the pre-audit, the auditor was provided with an MOU between the agency and Virginia Sexual and Domestic Violence Action Alliance. The MOU states the toll-free Family Violence and Sexual Assault Hotline (statewide hotline) shall be a resource for reporting sexual abuse or assault available to victims (DOC offenders) statewide who desire an external method of reporting.

Operating Procedure 866.1 states the Offender Grievance Procedure is one of the multiple internal ways for offenders to privately report sexual abuse and sexual harassment, retaliation by other offenders or staff for reporting sexual abuse and sexual harassment, and staff neglect or violation of responsibilities that may have contributed to such incidents. Staff shall accept any report of PREA related issues made through the

Offender Grievance Procedure and immediately report any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment to the Facility Unit Head and facility PREA Compliance Manager.

Operating Procedure 866.1 states staff shall accept any report of PREA related issues made through an Informal Complaint and immediately report any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment to the Facility Unit Head and facility PREA Compliance Manager.

Operating Procedure 866.1 states staff shall accept any report of PREA related issues made through a Regular Grievance and immediately report any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment to the Facility Manager. The facility PREA Compliance Manager shall notify the Regional PREA Analyst.

During the onsite audit, the auditor tested the PREA Hotline. There were options for both English and Spanish. The auditor was able to make contact with a live representative from Virginia Sexual and Domestic Violence Action Alliance, using the hotline.

Staff interviews indicate staff and inmates can privately report sexual abuse or sexual harassment by sending a private report to the Watch Commander or by calling the PREA Hotline at #55 for inmates, 1-855-602-7001 for staff. Staff acknowledged they would accept reports from inmates regardless of whether they were verbal, written, anonymous, or from third parties. Verbal reports would be documented by staff, immediately after receiving the report.

Inmate interviews indicate inmates were aware they could send in private requests or utilize the PREA Hotline when making a private report. Inmates advised staff would accept verbal, written, anonymous, and third party reports.

### **§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)

Operating Procedure 038.3 is the agency's administrative procedure for dealing with inmate grievances regarding sexual abuse. Policy states there is no time limit on when an offender may submit a grievance regarding an allegation of sexual abuse. Third

parties, including fellow offenders, staff members, family members, attorneys, and outside advocates, shall be permitted to assist offenders in filing requests for administrative remedies relating to allegations of sexual abuse, and shall also be permitted to file such requests on behalf of offenders. If the offender declines to have the request processed on his or her behalf, the agency shall document the offender's decision.

Operating Procedure 866.1 states an offender is not required to use the informal complaint process, or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse.

Operating Procedure 866.1 states each institution shall ensure in its Implementation Memorandum that:

- a. An offender who alleges sexual abuse may submit a grievance without submitting it to a staff member who is the subject of the complaint.
- b. Such grievance is not referred to a staff member who is the subject of the complaint.

Operating Procedure 866.1 states total continuances on a grievance that alleges sexual abuse will not exceed 70 days.

In the past 12 months, there have not been any grievances filed that alleged sexual abuse.

Operating Procedure 866.1 states a regular grievance may be continued up to 30 calendar days beyond the specified time limits at any level of the procedure for good reason(s). The offender must be notified in writing of the continuance prior to the expiration of the specified time limit at any level and provided a date by which a decision will be made.

Operating Procedure 866.1 states emergency grievances are provided for offender reporting and expedited staff responses to allegations that an offender is subject to a substantial risk of imminent sexual abuse and to situations or conditions which may subject the offender to immediate risk of serious personal injury or irreparable harm. It is the duty of all corrections employees to be responsive to emergency grievances. After receiving an Emergency Grievance alleging an offender is subject to a substantial risk of imminent sexual abuse, the employee receiving it shall immediately forward the grievance (or any portion thereof that alleges the substantial risk of imminent sexual abuse) to the Administrative Duty Officer or Shift Commander to provide the response within 8 hours. The initial response and final agency decision shall document the institution's determination whether the offender is in substantial risk of imminent sexual abuse and the action taken in response to the Emergency Grievance.

In the past 12 months, there has been one emergency grievance alleging substantial risk of imminent sexual abuse that was filed.

In the past 12 months, there has been one grievance alleging substantial risk of imminent sexual abuse filed where the agency reached its final decision within five days.

In the past 12 months, there have not been any grievances alleging sexual abuse filed by inmates in the past 12 months in which the inmate declined third-party assistance, containing documentation of the inmate's decision to decline.

Operating Procedure 861.1 states a report shall not constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation.

Operating Procedure 866.1 states disciplinary charges may be brought against an offender for filing a grievance related to alleged sexual abuse only where the institution demonstrates that the offender filed the grievance in bad faith.

### **§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)

Operating Procedure 038.3 states offenders may contact their facility PREA Compliance Manager, Unit Manager, or Mental Health staff for contact information for access to outside victim advocates for emotional support services related to sexual abuse. The facility shall enable reasonable communication between offenders and these organizations and agencies, in as confidential manner as possible. The facility shall inform offenders, prior to giving them access, of the extent to which such communications will be monitored and the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws. The DOC maintains a Memorandum of Understanding (MOU) with a community provider who is able to provide offenders with access to confidential emotional support services related to sexual abuse. A copy of this agreement is available from the PREA Coordinator.

During the pre-audit, the auditor was provided with PREA Brochures in English, Spanish, and for those who are hearing impaired. The posters contained phone numbers and mailing addresses for victim emotional support services.

The facility informs inmates, prior to giving them access to outside support services, of the mandatory reporting rules governing privacy, confidentiality, and/or privilege that apply to disclosures of sexual abuse made to outside victim advocates, including any limits to confidentiality under relevant federal, state, or local law.

During the pre-audit the auditor was provided with a contract renewal between the agency and Virginia Sexual & Domestic Violence Action Alliance. The contract included support services to victims of sexual abuse. The date on the renewal was March 11, 2015, and it does not expire until April 30, 2016.

The auditor was provided with documentation stating Sussex II State Prison did not have any inmates request the services mentioned above, during the 2014/2015 audit cycle.

Inmate interviews indicate inmates are provided with access to telephone numbers and mailing addresses to victim advocates. Virginia Sexual and Domestic Violence Action Alliance is able to be reached through PREA Hotline by calling #55.

#### **§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)

Operating Procedures 038.3 states the Department of Corrections public website provides contact information on how to report sexual abuse and sexual harassment on behalf of an offender.

During the pre-audit, the auditor was provided with screen shot of the agency's website, which states; "If you or someone you know were sexually abused or sexually harassed while in custody or under the supervision of the Virginia Department of Corrections, you may complete and mail in the Third Party Reporting Form, email us, or call the Confidential Reporting Hotline to initiate a review. The VADOC will take appropriate steps to protect staff, contractors, volunteers, offenders and probationers from retaliation for reporting occurrences of sexual abuse or sexual harassment."

Third party reporting forms are available on the agency website in both English and Spanish.

#### **§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)

Operating Procedure 038.1 states any employee, volunteer, or contractor shall immediately report to his or her supervisor or the officer in charge any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in a facility, whether or not it is part of the DOC; retaliation against offenders or staff who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation. If applicable, an internal incident report checked PREA shall be submitted. Apart from reporting to designated supervisors or officials any information related to a sexual abuse report shall not be revealed to anyone other than to the extent necessary, as specified in operating procedures, to make treatment, investigation, and other security and management decisions.

Staff interviews indicate staff are aware the agency requires all staff to report any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in a facility, as well as retaliation against inmates or staff who reported such an incident, and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation. All allegations of sexual abuse and sexual harassment (including those from third-party and anonymous sources) are reported directly to designated facility investigators.

Medical and mental health staff indicate they disclose the limitations of confidentiality and their duty to report, at the initiation of services to an inmate. Medical and mental health staff also acknowledged being required to report any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment to a designated supervisor or official immediately upon learning it.

### **§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)

Operating Procedure 038.3 states when a facility learns that an offender is subject to a substantial risk of imminent sexual abuse, it shall take immediate action to protect the offender.

In the past 12 months, there have not been any times the agency or facility determined that an inmate was subject to a substantial risk of imminent sexual abuse.

Staff interviews indicate the facility takes protective action to protect inmates who are subject to a substantial risk of imminent sexual abuse. Staff would immediately move the inmate to a secure location and notify a supervisor. If appropriate, staff would move the inmate toward the front of the door, close to the control room so they could be monitored more closely. If the inmate requested a single cell, they would be placed in single cell special housing.

### **§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)

Operating Procedure 038.3 states upon receiving an allegation that an offender was sexually abuse while confined at another facility, the head of the facility that received the allegation shall notify the head of the facility or appropriate office of the agency where the alleged abuse occurred. Such notifications shall be provided as soon as possible, but no later than 72 hours after receiving the allegation. The Facility Unit Head shall document that it has provided such notification. The facility head or agency office that receives such notifications shall ensure that the allegation is investigated in accordance with these standards.

During the past 12 months, there have not been any allegations that the facility received that an inmate was abused while confined at another facility.

Operating Procedure 030.4 states when the Facility Unit Head receives notification from another facility that an offender was sexually abused while confined at that facility, they shall ensure that the allegation is investigated in accordance with the PREA standards.

During the past 12 months, there has been one allegation of sexual abuse the facility received from other facilities. The auditor was provided documentation showing this allegation was investigated and unsubstantiated.

Staff interviews indicate when they receive allegations from other facilities about incidents that occurred within their facility, the investigators would investigate the allegation the same as allegations they receive directly. If the staff receive allegations of sexual abuse or sexual harassment that have allegedly occurred at other facilities, they would be reported to the head of that facility and/or agency.

### **§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)

Operating Procedure 030.4 states upon learning of an allegation that an offender was sexually abused, the first security staff member to respond to the report shall be required to:

- 1) Separate the alleged victim and abuser
- 2) Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence.
- 3) If the abuse occurred within a time period that still allows for the collection of physical evidence, request that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating.
- 4) If the abuse occurred within a time period that still allows for the collection of physical evidence, ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating.

In the past 12 months, there have been two allegations that an inmate was sexually abused.

Of these allegations, there was only one instance where the staff member separated the alleged victim from the abuser. For the other instance, the alleged victim and abuser were already separated.

Of these allegations, there was only one instance where the staff was notified within a time period that still allowed for the collection of physical evidence. This security staff member:

- 1) Preserved and protected any crime scene until appropriate steps could be taken to collect evidence.
- 2) Requested that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating.
- 3) Ensured that the alleged abuser did not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing cloths, urinating, defecating, smoking, drinking, or eating.

Operating Procedure 038.3 states if the first responder is not a security staff member, the responder shall be required to request that the alleged victim not take any actions that could destroy physical evidence, and then notify security staff.

In the past 12 months, there have not been any instances where a non-security staff member was the first responder to an allegation that an inmate was sexually abused.

Staff interviews indicate staff were aware of what to do if they were the first person to be alerted that an inmate has allegedly been the victim of sexual abuse. Staff would move the victim away from the abuser, notify their supervisor, secure the scene, and take steps to preserve evidence.

#### **§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)

Operating Procedure 038.3 states each facility shall develop a written institutional plan to coordinate actions taken in response to an incident of sexual abuse, among staff first responders, medical and mental health practitioners, investigators, and facility leadership.

During the pre-audit, the auditor was provided with a copy of the facility's coordinated response plan (Sussex II State Prison PREA Response & Management Plan). A review of the response plan indicates areas of responsibility are clearly outlined.

**§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)

XX Not Applicable

During the pre-audit, the auditor was provided with documentation stating Sussex II State Prison is not responsible for collective bargaining on the agency's or facility's behalf and neither shall enter into or renew any collective bargaining agreement or other agreement that limits the organization's ability to recover alleged staff abusers from contact with any offenders pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted.

Staff interviews indicate the agency does not have collective bargaining agreements.

**§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)

Operating Procedure 038.3 states all staff offenders who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations shall be protected from retaliation by other offenders or staff. For at least 90 days following a report of sexual abuse, the DOC shall monitor the conduct and treatment of offenders or staff who reported the sexual abuse and of offenders who were reported to have suffered sexual abuse to see if there are changes that may suggest possible retaliation by offenders or staff, and shall act promptly to remedy any such retaliation. Items to be monitored include any offender disciplinary reports, housing, or program changes, or

negative performance reviews or reassignments of staff. The DOC shall continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need.

The conduct or treatment of inmates or staff who reported sexual abuse and of inmates who were reported to have suffered sexual abuse to see if there are any changes that may suggest possible retaliation by inmates or staff will be monitored for a minimum of 90 days on all allegations.

The facility designated the Operations Manager as the staff member charged with monitoring retaliation.

During the pre-audit, the auditor was provided with copies of the PREA Compliance Managers log book that she uses to make notes documenting her retaliation monitoring.

In the past 12 months, there have not been any incidents of retaliation that have occurred.

Staff interviews indicate the PREA Compliance Manager monitors retaliation for up to 90 days. Retaliation may be monitored beyond 90 days, if warranted. If a staff member was involved, the staff member would be separated from the inmate and may receive disciplinary action commensurate with the type of behavior taken. If an inmate retaliates against another inmate, they would be kept separate from one another. Other options to protect against retaliation include protective custody and/or transfer to another facility.

#### **§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)

Operating Procedure 830.5 states, for an offender identified as HRSV or an alleged victim of sexual abuse who has been assigned to Special Housing without their consent, Mental Health staff shall advise the ICA on whether the offender can be released to General Population or whether they must be assigned to Segregation and/or transferred to the DOC Protective Custody Unit. Involuntary assignment to Segregation shall only be made until an alternative means of separation from likely abusers can be arranged. The ICA must clearly document the basis for the institution's concern for the offender's safety

and the reason why no alternative means can be arranged. This assignment shall not ordinarily exceed a period of 30 days.

During the past 12 months, there has been one inmate who alleged to have suffered sexual abuse who were held in involuntary segregated housing for one to 24 hours awaiting completion of an assessment.

During the past 12 months, there has been one inmate who alleged to have suffered sexual abuse who was assigned to involuntary segregated housing for longer than 30 days while awaiting an alternative assessment.

During the pre-audit, the auditor was provided with documentation showing a statement for the basis for facility's concern for the inmate's safety, and the reason why alternative means of separation could not be arranged.

If an involuntary segregated housing assignment is made, the facility affords each such inmate a review every 30 days to determine whether there is a continuing need for separation from the general population.

Staff interviews indicate the agency has a policy prohibiting placing inmates at high risk for sexual victimization or who have alleged sexual abuse in involuntary segregated housing in lieu of other housing areas, unless an assessment has determined there are no available alternative means of separation from likely abusers. If an inmate were to be held in involuntary segregated housing for this reason, they would be moved as soon as less restrictive housing became available.

### **§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)

Operating Procedure 030.4 states administrative investigations; shall include an effort to determine whether staff actions or failures to act contributed to the abuse; and shall be documented in written reports that include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings. Criminal investigations shall be documented in a written report that contains a thorough description of physical, testimonial, and documentary evidence and attaches

copies of all documentary evidence where feasible. Substantiated allegations of conduct that appears to be criminal shall be referred for prosecution.

There have not been any substantiated allegations of conduct that appear to be criminal that were referred for prosecution since August 20, 2012.

Operating Procedure 038.3 states all case records associated with claims of sexual abuse or sexual harassment, including incident reports, investigative reports, offender information, case disposition, medical and counseling evaluation findings, and recommendation for post-release treatment or counseling shall be retained for as long as the alleged abuser is incarcerated or employed by the agency, plus five years.

During the pre-audit, the auditor was provided with documentation from the facility stating Sussex II State Prison has not had any PREA cases referred for prosecution.

During the pre-audit, the auditor was provided with PowerPoints used for investigator training. In addition, the auditor was provided with a log of investigators who have received such training.

During the pre-audit, the auditor was provided with a sample of an investigation. The investigation consisted of a complete investigation into an allegation inmate on inmate sexual harassment which was substantiated.

Staff interviews indicate investigative staff received training on conducting sexual abuse investigations in confinement settings. Training topics include: techniques for interviewing sexual abuse victims, proper use of Miranda and Garrity warnings, sexual abuse evidence collection in confinement settings, and the criteria and evidence required to substantiate a case for administrative or prosecution referral. A standard of preponderance of evidence is used to substantiate allegations of sexual abuse and sexual harassment. Facility investigators conduct administrative investigations and SIU would conduct criminal investigations. Facility investigators would work in tandem with SIU and assist SIU in any way possible.

#### **§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)

Operating Procedure 130.1 states a preponderance of the evidence will be adequate in determining whether allegations of sexual abuse or sexual harassment are substantiated.

Staff interviews indicate a preponderance of evidence is used to substantiate allegations of sexual abuse and sexual harassment.

### **§115.73 – Reporting to Inmate**

- 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)

Operating Procedure 030.4 states upon completion of the investigation, SIU should inform the Facility Unit Head as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded.

Operating Procedure 038.3 states following an investigation into an offender's allegation that he or she suffered sexual abuse in a DOC facility, the investigator in charge shall inform the offender as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded. If the DOC did not conduct the investigation, the institutional investigator shall request the relevant information from the investigative agency in order to inform the offender. Following an offender's allegation that a staff member has committed sexual abuse against the offender, the DOC shall subsequently inform the offender whenever;

- a) The DOC has determined that the allegation is unfounded;
- b) The DOC has determined that the allegation is unsubstantiated;
- c) The staff member is no longer posted within the offender's unit;
- d) The staff member is no longer employed at the facility;
- e) The DOC learns that the staff member has been indicted on a charge related to sexual abuse within the facility; or
- f) The DOC learns that the staff member has been convicted on a charge related to sexual abuse within the facility.

During the pre-audit, the auditor was provided with a sample of an alleged sexual abuse investigation. At the conclusion of the investigation, the alleged inmate victim was notified, in writing, of the results of the investigation.

Following an offender's allegation that he or she has been sexually abused by another offender, the agency shall subsequently inform the alleged victim whenever:

- a) The DOC has determined the allegation is unfounded;
- b) The DOC has determined that the allegation is unsubstantiated;
- c) The DOC learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility; or
- d) The DOC learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility.

All such notifications or attempted notifications shall be documented and sent to the offender in the same manner as legal mail. DOC's obligation to report under this standard shall terminate if the offender is released from custody.

During the pre-audit, the auditor was advised five investigations were completed by the agency/facility and five notifications were given to inmates pursuant to this standard.

During the past 12 months, there have not been any investigations of alleged inmate sexual abuse in the facility that were completed by an outside agency.

Staff interviews indicate an inmate who makes an allegation of sexual abuse when the allegation has been determined to be substantiated, unsubstantiated, or unfounded following an investigation. The offender notification letters are sent as legal mail and are documented through the offender's signature of receipt.

#### **§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)

Operating Procedure 130.1 states sexual misconduct will be treated as a Group III offense subject to disciplinary sanctions up to and including termination under Operating Procedure 135.1 Standards of Conduct. Termination shall be the presumptive

disciplinary sanction for employees who have engaged in sexual abuse. All terminations for violations of DOC sexual abuse or sexual harassment policies, or resignations by staff that would have been terminated if not for their resignation, shall be reported to any relevant licensing bodies by the DOC PREA Coordinator, and to law enforcement agencies, unless the activity was clearly not criminal.

Operating Procedure 135.1 states disciplinary sanctions for violations of DOC policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) shall be commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories.

During the pre-audit, the auditor was provided with documentation from a staff disciplinary for Fraternalization. The staff member voluntarily resigned in lieu of termination.

In the past 12 months, there have not been any staff from the facility who have been disciplined, short of termination, for violation of agency sexual abuse or sexual harassment policies.

Operating Procedure 135.1 states staff who are terminated, or who choose to resign in lieu of termination, for violation of the DOC sexual abuse or sexual harassment policies shall be informed of the DOC's reporting the employment action to any relevant licensing bodies and to law enforcement agencies, unless the activity was clearly not criminal.

In the past 12 months, there have not been any staff from the facility who have been reported to law enforcement or licensing boards following their terminations (or resignation prior to termination) for violating agency sexual abuse or sexual harassment policies.

#### **§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)

Operating Procedure 027.1 states any volunteer who engages in sexual abuse shall be prohibited from contact with offenders and shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies.

The facility shall take appropriate remedial measures, and shall consider whether to prohibit further contact with offenders, in the case of any other violation of agency sexual abuse or sexual harassment policies by a volunteer.

In the past 12 months, there have not been any contractors or volunteers reported to law enforcement for engaging in sexual abuse of inmates.

Staff interviews indicate any contractor or volunteer who violated agency sexual abuse or sexual harassment policies would be banned from the facility and from all contact with inmates, pending an investigation. If the actions were criminal in nature, the agency would seek criminal charges.

### **§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)

In the past 12 months, there have not been any administrative findings of inmate-on-inmate sexual abuse that have occurred at the facility.

In the past 12 months, there have not been any criminal findings of inmate-on-inmate sexual abuse that have occurred at the facility.

The pre-audit questionnaire indicates this facility offers therapy, counseling, or other interventions designed to address and correct the underlying reasons or motivations for abuse.

Operating Procedure 820.2 states facilities that offer therapy, counseling, or other interventions designed to address and correct the underlying reasons or motivations for sexually abusive behavior shall determine if offenders who are found guilty of a disciplinary or criminal offense for sexual abuse are required to participate in such interventions as a condition of access to programming or other benefits.

Operating Procedure 038.3 states offenders shall not be charged for reports of sexual abuse made in good faith, based upon a reasonable belief that the alleged conduct occurred.

Staff interviews indicate inmates would be subject to disciplinary sanctions following an administrative or criminal finding that the inmate engaged in inmate-on-inmate sexual

abuse. Inmates would receive an institutional charge for misconduct. If the actions were criminal in nature, the inmate abuser would be referred for prosecution by SIU. The inmate abuser may face a loss of good time and may also be transferred to a higher level security prison. Disciplinary sanctions are proportionate to the nature and circumstances of the abuses committed, the inmates' disciplinary histories, and the sanctions imposed for similar offenses by other inmates with similar histories. An inmate's mental disability or mental illness is considered when determining sanctions.

Medical and mental health staff interviews indicate they provide therapy, counseling, or other intervention in an attempt to address and correct the underlying reasons or motivations for sexual abuse. When these services are provided, staff gauge an inmate's participation as a condition of access to programming or other benefits.

**§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)

Operating Procedure 730.2 states in institutions, within 14 days, the QMHP will notify offenders identified as HRSA or HRSV of the availability of a follow-up meeting with a mental health practitioner and relevant available treatment and programming. Notification will be documented on the Prison Rape Elimination Act (PREA) QMHP Follow-Up.

In the past 12 months, three inmates disclosed victimization during screening and were offered a follow-up meeting with a medical or mental health practitioner. This is 100% of all inmates who disclosed victimization during screening.

During the pre-audit, the auditor was provided with sample documentation of medical/mental health referrals and tracking charts.

Operating Procedure 425.4 states any information related to sexual victimization or abusiveness that occurred in an institutional setting shall be strictly limited to medical and mental health practitioners and other staff, as necessary, to inform treatment plans and security and management decisions, including housing, bed, work, education, and program assignments, or as otherwise required by Federal, State, or local law.

Operating Procedure 701.3 states medical and mental health practitioners shall obtain informed consent from offenders before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the inmate is under the age of 18.

During the onsite audit, the auditor reviewed a random sample of screenings and discovered the follow-up mental health evaluations are occurring within 14 days of the risk screening.

Inmate interviews indicate inmates who disclose sexual victimization at risk screening are offered a follow-up evaluation with medical and/or mental health staff.

Staff interviews indicate inmates who disclose sexual victimization at risk screening are offered a follow-up evaluation with medical and/or mental health staff. Those inmates who have previously perpetrated sexual abuse are also offered follow-up evaluations. Typically, follow-up mental health evaluations occur as soon as they have access to the inmate; however, policy requires the evaluation to occur within 48 hours.

#### **§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)

Operating Procedure 720.7 states offender victims of sexual abuse shall receive timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by medical and mental health practitioners according to their professional judgement. If no qualified medical and mental health practitioners are on duty at the time a report of recent abuse is made, security staff first responders shall take preliminary steps to protect the victim and shall immediately notify the appropriate medical and mental health practitioners. Offender victims of sexual abuse while incarcerated shall be offered timely information about and timely access to emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care, where medically appropriate. Treatment and 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.

Staff interviews indicate inmate victims of sexual abuse receive timely and unimpeded access to emergency medical treatment and crisis intervention services. Typically, this occurs immediately. The nature and scope of these services determined according to your professional judgment. Victims of sexual abuse are offered timely information about access to emergency contraception and sexually transmitted infection prophylaxis.

**§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)

Operating Procedure 720.7 states the facility shall offer medical and mental health evaluation and, as appropriate, treatment to all offenders who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility.

The facility is an all-male facility; therefore, Standards 115.83 (d) – 1 and 115.83 (e) – 1 are not applicable.

Operating Procedure 720.7 states offender victims of sexual abuse while incarcerated shall be offered tests for sexually transmitted infections as medically appropriate.

Operating Procedure 730.2 states all prisons shall attempt to conduct a mental health evaluation of all known offender-on-offender abusers within 60 days of learning of such abuse history and offer treatment deemed appropriate by mental health practitioners.

Staff interviews indicate evaluation and treatment of victims include life safety measures to make sure the inmate is stable. Clothing would be processed as evidence. Medical and mental health services are consistent with community level care.

**§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)

Operating Procedure 038.1 states a sexual abuse incident review shall be conducted at the conclusion of every sexual abuse investigation including where the allegation has not been substantiated, unless the allegation has been determined to be unfounded. A sexual harassment incident review shall be conducted at the conclusion of every investigation into an allegation of sexual harassment where the allegation has been determined to be substantiated. The Review Team shall consist of at least one Administrative Duty Officer who will solicit input from line supervisors, investigators, and medical or mental health practitioners for all sexual abuse and harassment incident reviews. The review should begin as soon as practical after the incident and a Report of Incident Review 038\_F3 submitted within 7 working days of the initial Incident Report.

During the pre-audit, the auditor was advised of three allegations of abuse that occurred during the past 12 months. All three of these allegations were followed by a sexual abuse incident review.

Operating Procedure 038.1 states the Review Team will determine what can be done to limit the occurrence or reduce the severity of future incidents; consider whether there was a proper application of current procedure, practice, staffing and/or training; or whether there is a need to revise the current procedure, practice, staffing, and/or training. The Review Team will also develop an Action Plan to limit or mitigate similar future incidents. The unit shall implement the recommendations for improvement, or shall document the reasons for not doing so. The reports are submitted to the Regional Office for review by the Regional Administrator and/or Regional Operations Chief. A copy of all Report of Incident Reviews for sexual abuse and sexual harassment shall be submitted to the Regional PREA Analyst as provided in Operating Procedure 038.3, Prison Rape Elimination Act (PREA).

Staff interviews indicate the facility has a sexual abuse incident review team. The team consists of the Warden, Assistant Warden, Major, Medical and Mental Health and any other staff deemed appropriate. The sexual abuse incident review team looks for any deficiencies. If any are discovered, action would be taken including changing procedures, if appropriate. The review team considers whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; gang affiliation; and/or other group dynamics. The review team; examines the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse, assess the adequacy of staffing levels in that area during different shifts, and assess whether monitoring technology should be deployed or augmented to supplement supervision by staff.

### **§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)

Operating Procedure 038.3 states the DOC shall collect accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions. The agency shall aggregate the incident-based sexual abuse data at least annually. The incident-based data collected shall include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence conducted by the Department of Justice. The agency shall maintain, review, and collect data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews. The agency also shall obtain incident-based and aggregated data from every private facility with which it contracts for the confinement of its offenders. Upon request, the DOC shall provide all such data from the previous calendar year to the Department of Justice no later than June 30.

The auditor was provided with the data collected from 2012, 2013, and 2014. The data collection instrument was the Bureau of Justice Statistics Survey on Sexual Violence (SSV) Form. The instrument included definitions prohibited sexual misconduct.

### **§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)

Operating Procedure 038.3 states the DOC shall review data collected and aggregated pursuant to this operation procedure in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by:

- a) Identifying problem areas;

- b) Taking corrective action on an ongoing basis; and
- c) Preparing an annual report of its findings and corrective actions for each facility, as well as the agency as a whole.

Such report shall include a comparison of the current year's data and corrective actions with those from prior years and shall provide an assessment of the DOC's progress in addressing sexual abuse. The DOC report shall be approved by the Director and made readily available to the public through its website. The DOC may redact specific material from the reports when publication would present a clear and specific threat to the safety and security of a facility, but must indicate the nature of the material redacted.

Staff interviews indicate after an assault has occurred, there is a Critical Incident Debriefing and an After Action Report. The Regional Operations Chief, the Warden, ranking correctional officers, and the Chief of Correctional Operations meet and discuss the incident and what could have been done to prevent the incident from happening again. The report is sent to the Director and the Chief of Correctional Operations and the two other Regional Operations Chiefs as a "lessons learned" document. In addition, the DOC aggregates data regarding all assaults and looks for trends across the DOC and down to specific institutions. This information is shared with the Director, Chief of Correctional Operations, and the Regional Administrators. In addition, the PREA staff review all incidents involving sexual assaults or sexual harassment. If the report indicates a need to change policy or procedure, the appropriate change is made and communicated to all applicable DOC employees. All reports come to the Director for review and his approval before they are sent out publicly. Once approved, the reports are posted on the agency's website (<http://vadoc.virginia.gov/about/facts/prea/2014-prea-annual-report.pdf>). All personal identifiers are redacted.

### **§§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)

Operating Procedure 038.3 states the DOC shall ensure that data collected of allegations of sexual abuse at facilities under its direct control are securely retained. The DOC shall make all aggregated sexual abuse data, from facilities under its direct control and private facilities with which it contracts, readily available to the public at least annually through its website. Before making aggregated sexual abuse data publicly available, the DOC

shall remove all personal identifiers. The DOC shall maintain this sexual abuse data collected for at least 10 years after the date of the initial collection unless Federal, State, or local law requires otherwise.

Information is gathered from investigations. Trends are identified from the data collected. The agency implements corrective action when warranted. Changes may be implemented at both the state and institution level.

**AUDITOR CERTIFICATION:**

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

Jeff Kovar  
Department of Justice Certified PREA Auditor

December 1, 2015  
Date