

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

Interim Final

Date of Report 5/18/2018

Auditor Information

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Company Name: The Nakamoto Group, Inc.	
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Telephone: 301-468-6535	Date of Facility Visit: 4/17-19/2018

Agency Information

Name of Agency: Federal Bureau of Prisons		Governing Authority or Parent Agency (If Applicable): U. S. Department of Justice	
Physical Address: 320 First Street, NW		City, State, Zip: Washington, DC 20534	
Mailing Address: 320 First Street, NW		City, State, Zip: Washington, DC 20534	
Telephone: 202-307-3198		Is Agency accredited by any organization? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
The Agency Is:	<input type="checkbox"/> Military	<input type="checkbox"/> Private for Profit	<input type="checkbox"/> Private not for Profit
<input type="checkbox"/> Municipal	<input type="checkbox"/> County	<input type="checkbox"/> State	<input checked="" type="checkbox"/> Federal

The mission of the Federal Bureau of Prisons to protect society by confining offenders in the controlled environments of prisons and community-based facilities that are safe, humane, cost-efficient, and appropriately secure, and that provide work and other self-improvement opportunities to assist offenders in becoming law-abiding citizens.

Agency Website with PREA Information: https://www.bop.gov/inmates/custody_and_care/sexual_abuse_prevention.jsp

Agency Chief Executive Officer

Name: Mark S. Inch	Title: Director
Email: BOP-CPD/PREACoordinator@bop.gov	Telephone: 202-616-2112

Agency-Wide PREA Coordinator

Name: Jill Roth	Title: National PREA Coordinator
Email: BOP-CPD/PREACoordinator@bop.gov	Telephone: 202-616-2112
PREA Coordinator Reports to: Hugh Hurwitz, Assistant Director, Reentry Services Division	Number of Compliance Managers who report to the PREA Coordinator: none

Facility Information

Name of Facility: Metropolitan Correctional Center (MCC) New York

Physical Address: 150 Park Row, New York, New York, 10007

Mailing Address (if different than above):

Telephone Number: (646) 836-6300

The Facility Is:	<input type="checkbox"/> Military	<input type="checkbox"/> Private for profit	<input type="checkbox"/> Private not for profit
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<input type="checkbox"/> Municipal	<input type="checkbox"/> County	<input type="checkbox"/> State	<input checked="" type="checkbox"/> Federal
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Facility Type:	<input type="checkbox"/> Jail	<input checked="" type="checkbox"/> Prison
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Facility Mission: The primary mission of the Metropolitan Correctional Center (MCC) New York is to house 800 pretrial and holdover adult male and female federal detainees from the New York City metropolitan area who are going through the judicial process. In addition, providing a safe, secure and humane environment for inmates and staff in compliance with the Bureau of Prisons' mission and goals.

Facility Website with PREA Information:
https://www.bop.gov/inmates/custody_and_care/sexual_abuse_prevention.jsp

Warden/Superintendent

Name: Shirley Skipper-Scott	Title: Acting Warden
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Email: NYM/PREAComplianceMgr@bop.gov	Telephone: (646) 836-6300
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Facility PREA Compliance Manager

Name: Shirley Skipper-Scott	Title: Acting Warden/Associate Warden
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Email: NYM/PREACompliance@bop.gov	Telephone: (646) 836-6300
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Facility Health Service Administrator

Name: Hossam Gregory	Title: Health Service Administrator
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Email: NYM/PREACompliance@bop.gov	Telephone: (646) 836-6300
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Facility Characteristics

Designated Facility Capacity: 883	Current Population of Facility: 767
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Number of inmates admitted to facility during the past 12 months	2600
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Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 30 days or more:	2400
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Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 72 hours or more:	2500
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Number of inmates on date of audit who were admitted to facility prior to August 20, 2012:	1
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Age Range of Population:	Youthful Inmates Under 18: none	Adults: 20-86		
Are youthful inmates housed separately from the adult population?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/> NA	
Number of youthful inmates housed at this facility during the past 12 months:				N/A
Average length of stay or time under supervision:				36 months
Facility security level/inmate custody levels:				Administrative/In
Number of staff currently employed by the facility who may have contact with inmates:				288
Number of staff hired by the facility during the past 12 months who may have contact with inmates:				2
Number of staff assigned to the facility (including current staff and new hires) since the last audit:				231
Number of contracts in the past 12 months for services with contractors who may have contact with inmates:				5
Physical Plant				
Number of Buildings: 30		Number of Single Cell Housing Units: 370		
Number of Multiple Occupancy Cell Housing Units:		92		
Number of Open Bay/Dorm Housing Units:		36		
Number of Segregation Cells (Administrative and Disciplinary):		23		
Description of any video or electronic monitoring technology (including any relevant information about where cameras are placed, where the control room is, retention of video, etc.): MCC New York employs a video camera system for video surveillance. Cameras are placed strategically throughout the institution to ensure the safety and security of both inmates and staff.				
Medical				
Type of Medical Facility:		Community-based ambulatory care		
Forensic sexual assault medical exams are conducted at:		Mount Sinai Beth Israel Hospital, New York, New York		
Other				
Number of volunteers and individual contractors, who may have contact with inmates, currently authorized to enter the facility:				34
Number of investigators the agency currently employs to investigate allegations of sexual abuse:				253

Audit Findings

Audit Narrative

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

The on-site visit for the PREA (Prison Rape Elimination Act) compliance audit of the Metropolitan Correctional Center (MCC) located in New York, New York, was conducted April 17-19, 2018 by The Nakamoto Group, Inc. certified auditor Sonya Love Smith. This is the second PREA audit for this facility

Pre-Audit Preparation

Prior to the on-site visit, a representative from the External Auditing Branch, Program Review Division of the Federal Bureau of Prisons (BOP), conducted an on-site "pre-audit" of the facility to prepare for the audit. BOP Central Office staff are extremely knowledgeable of the PREA and serve as agency liaisons for all PREA audits. At the direction of the BOP Management Analyst, all policies and supportive documentation were provided to the auditor for review, prior to the on-site visit. Policies and documentation were provided as Program Statements (PS), Institution Supplements (IS) and other forms/memos. Program Statements are agency-wide governing policies developed by the BOP and Institution Supplements stipulate institution specific policies, in the event there is no agency-wide policy or site-specific policy required to expand on agency Program Statements. The results of the internal audit and Preaudit Questionnaire (PAQ) were discussed with the auditor prior to the on-site visit.

Sampling Methodology- Inmates

The inmate sample size was based on the population census on the first day of the audit, along with the established census criteria outlined by the PREA Resource Center (PRC). There were 767 inmates on the first day of this audit. A total of thirty inmates (male/female) were interviewed, to include one hearing impaired inmate, two visually impaired inmates, three Limited English Proficient (LEP) inmates, two self-identified gay inmates and five inmates who reported sexual victimization during risk screening. There were no inmates in the SHU for High Risk of Sexual Victimization, no inmates who were identified with limited cognitive disability or any inmates who self-identified as being intersex or transgender. Additionally, no inmates refused to be interviewed.

Sampling Methodology - Staff/Volunteers/ Contractors

During the tour, five random staff members were asked the questions outlined in the First Responder interview questionnaire; all staff members answered correctly. This group was not included in the random formal interviews because the information was obtained during informal conversation.

Personnel were randomly selected from roster of individuals scheduled to work during the onsite audit process. Ten personnel were selected and interviewed from different disciplines throughout the facility,

medical, case management and intake staff. Correctional Officers and Lieutenants from each shift were included in the interviews.

Sixteen specialized staff members to include, but not limited to, the Acting Warden/Associate Warden of Programs/PREA Compliance Manager, one Psychologist, three additional intermediate or higher-level facility staff, two Special Investigative Lieutenants, the Human Resource Manager, the Health Services Administrator and the Intake Officer were interviewed during the same onsite audit period. Additionally, the auditor interviewed five volunteers (telephonically), one contract staff, a local Sexual Abuse Nurse Examiner (SANE) (telephonically).

First day- Briefing and Tour (On-site Audit)

Upon arrival at the facility, an in-briefing meeting was held with the Acting Warden/Associate Warden of Programs/PREA Compliance Manager, Associate Warden of Operations, Executive Assistant, Captain, various department heads, an American Correctional Association (ACA) Auditor and two representatives from the BOP Program Review Division. The standards used for this audit became effective August 20, 2012.

This auditor discussed the information contained in the Pre-Audit Questionnaire with the Institution PREA Compliance Manager (IPCM). The National PREA Coordinator and National PREA Contract Administrator for the BOP were previously interviewed telephonically. As part of the audit, a review of all agency and local facility PREA policies was conducted, as well as a tour of the facility. The tour included the intake processing areas, all housing units, the Special Housing Unit (SHU), the Health Services Departments, Recreation, Food Service, facility support areas, Education, Visiting Rooms and programming areas. During the tour, it was noted that there were sufficient staffing and surveillance cameras to ensure a safe environment for inmates and staff. Signs were posted (in English and Spanish) that indicated employees of the opposite gender were present in the housing units. Informal and formal conversations with employees and inmates regarding the PREA standards were conducted. Postings, regarding PREA violation reporting and the agency's zero tolerance policy toward sexual abuse and sexual harassment, were prominently displayed in all housing units, meeting areas and throughout the facility. Audit notice postings with the PREA auditor's contact information were in the same areas. These notices were posted in January 2018. The auditor did not receive correspondence from any inmates.

Staff-Inmate Interviews-Second Day

On the second day, randomly selected personnel were interviewed. All personnel interviewed confirmed they were aware of the institution's Zero Tolerance Policy, understood their responsibility, and their duty to protect inmates from sexual abuse/sexual harassment. Each staff member interviewed affirmed an awareness and understanding of the role and duties of a first responder in the event of a PREA related allegation. In addition, staff could clearly explain their role as part of a coordinated response. All interviewed staff, contractors and volunteers verbally demonstrated an understanding of the PREA and their responsibilities under the PREA mandate.

Investigations

During the current auditing period, there were four reported allegations of sexual abuse/sexual harassment. Of the four reported, two were found to be unsubstantiated and two were determined to be unfounded. Two cases were inmate-on-inmate allegations and two were staff-on-inmate. At the time of the audit, there were no open cases.

Facility Characteristics

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

Dedicated on July 1, 1975, MCC New York is a unique facility with varied missions. Although primarily responsible for housing inmates for the United States Marshals Service, it is the other facets of its operation which give MCC New York its character. MCC New York is a complicated operation within the Federal Bureau of Prisons for a variety of reasons. The facility structure has a total of ten single housing units of multiple occupancy cells and one open bay/dormitory unit. It houses nearly 375 separation cases with approximately 225 of these having at least one separatee also housed at the same facility. In many instances, inmates have separations orders from other inmates in every unit. In fact, because of its ability to keep inmates separated from one another, MCC New York has been known to house gang members affiliated with approximately thirty different gangs.

MCC New York is an administrative facility, it houses all security levels from inmates facing minimal federal charges to international terrorists facing trial. The inmate population also includes approximately 100 cadre inmates. The cadre inmates assisting in the care and maintenance of the facility. MCC New York is also known for housing high profile inmates and high security inmates.

MCC New York provides detainees an opportunity to access a variety of programs in domains such as education, vocational education, religious, psychology services, substance abuse and recreation. Examples of specific program offerings include; re-entry, literacy, English-as-a-second-language, parenting, adult continuing education, marketable work skills, high school equivalency, general educational development, personal experience & life skills, crisis intervention, basic cognitive skills group therapy, drug education, intramural sport leagues, health & fitness and development of mental and physical skills.

Summary of Audit Findings

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

There are adequate limits to cross-gender viewing and searches. The facility has adaptive measures in place to ensure disabled and LEP inmates can participate in and benefit from all aspects of the PREA process. Hiring and promotion practices are consistent with sexual abuse safety measures. The facility has appropriate medical and victim advocacy networks in place and available, as needed. PREA education and training is documented. Inmates acknowledged the admissions screening process included questions regarding any history of sexual abuse or victimization and whether they would like to

identify a sexual preference. Intake, classification assessment and medical/mental health processes are efficient and seamless in addressing referrals based on victimization or abusiveness screening data. Related support documentation is organized and stored in information systems available on a need-to-know basis.

Reporting mechanisms are displayed in a conspicuous manner and inmates and staff members are aware of all reporting methods available to them. Systems are in place for coordinated responses to incidents of sexual abuse, as needed. The facility also has sufficiently trained personnel who conduct administrative investigations. The Special Investigative Services (SIS) Unit conducts administrative investigations. The Federal Bureau of Investigation (FBI) and the Office of the Inspector General (OIG) conduct criminal investigations. Staff indicated adequate training in all aspects of the PREA, particularly First Responder duties or actions to be taken in the event of a reported sexual abuse related incident. At the end of the audit, the auditor thanked the Acting Warden and the staff for their hard work and dedication to the PREA process.

Upon completion of the on-site visit, an exit briefing was held to discuss the audit findings. This briefing was held in the administrative conference room with the Acting Warden/Associate Warden of Programs/PREA Compliance Manager, the Associate Warden of Operations, the Executive Assistant, and two representatives from the BOP Program Review Division. The auditor was provided with extensive and lengthy files prior to the audit which support a conclusion of compliance with the PREA standards. Employees at the facility were found to be extremely courteous, cooperative and professional. All areas of the facility were found to be clean and well-managed.

Deficiencies Observed

1. Standard 115.13 - During the tour blind spots were identified on the living units, which included the mop closets and behind the unit food serving lines.
2. Standard 115.15 - During the site tour, the auditor noticed that some cells in some living units did not provide privacy from cross-gender viewing for inmates when using the toilet or changing clothes. In addition, in some units the shower curtains provided a solid linear barrier that encouraged the potential for sexual assault.
3. Standard 115.51 - Access to outside advocacy agencies using the toll-free 1-800 number provided by the facility is impeded by its omission. At best the reporting process is unclear, confusing and an inadvertent impediment to inmates at MCC New York. Standard 115.51
4. Standard 115.52 - A section of the inmate A & O Handbook conflicts with the BOP Program Statement, Administrative Remedy Program 1330.18. The A&O Handbook cites PS 1330.16 Administrative Remedy Program. The PS 1330.16 was updated in 2014. In addition, the PS 1330.18 conflicts with language found in the inmate A&O Handbook. Because the facility identifies the inmate A&O Handbook as a method of communicating PREA related education it is vital that the information contained in the handbook is factual.

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

Number of Standards Exceeded: 0

Number of Standards Met: 45

Number of Standards Not Met: 0

Summary of Corrective Action (if any)

1. During the tour, blind spots were identified on the living units, which included the mop closets and behind unit food serving lines. MCC New York corrected the blind spots by adding mirrors in living units to eliminate blind spots. This deficiency was corrected.
2. During the tour, the auditor noticed that some cells in some living units did not provide privacy from cross-gender viewing for inmates when using the toilet or changing clothes. In addition, in some units the shower curtains provided a solid linear barrier that encouraged the potential for sexual assault. The issues noted in this standard were corrected prior to the completion of the audit.
3. Access to outside advocacy agencies using the toll-free 1-800 number provided by the facility is impeded by its omission. At best the reporting process is unclear, confusing and an inadvertent impediment to inmates at MCC New York. The corrective action included a revision to the inmate Admission & Orientation Handbook to reflect a clear process for inmates to report abuse or harassment to a public entity, the rape crisis hotline, which is a 1-888 number. The inmates know understand they can now place calls by way of psychology staff, chaplaincy services or the assigned Unit Manager. This deficiency was corrected.
4. A section of the inmate A & O Handbook conflicts with the BOP Program Statement, Administrative Remedy Program 1330.18. The A&O Handbook cites PS 1330.16 Administrative Remedy Program. The PS 1330.16 was updated in 2014. In addition, the PS 1330.18 conflicts with language found in the inmate A&O Handbook. Because the facility identifies the inmate A&O Handbook as a method of communicating PREA related education it is vital that the information contained in the handbook is factual. The A&O Handbook was updated to reflect the current language found in BOP Program Statement 1330.18, Administrative Remedy Program. Specifically, the verbiage was changed to read, “Administrative Remedies regarding allegations of sexual abuse may be filed at any time.” The deficiency was corrected.

PREVENTION PLANNING

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

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

115.11 (a)

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

115.11 (b)

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

115.11 (c)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

Program Statement (PS) 5324.12, Sexually Abusive Behavior Prevention and Intervention Program and Institution Supplement (IS) 5324.12(b), Sexually Abusive Behavior Prevention and Intervention Program address the requirements identified in this standard. The agency has appointed a

psychologist assigned to the BOP Correctional Programs Division as their National PREA coordinator. The Warden has appointed the Associate Warden as the Institutional PREA Compliance Manager (IPCM). The IPCM reports directly to the Warden regarding all PREA related concerns. Previous interviews with the National PREA Coordinator and an onsite with the IPCM confirmed that each has sufficient time and authority to coordinate efforts to comply with PREA standards.

The agency and facility directives outline a Zero-Tolerance Policy for all forms of sexual abuse and sexual harassment. Inmates are informed orally about the Zero-Tolerance Policy and the PREA program is also reviewed by inmates during in-processing procedures via video. In addition, the inmates are also educated through the admission and orientation procedures. PREA education is offered in English and in Spanish. Inmates are also informed about the program and zero-tolerance in the Admission and Orientation (A&O) Handbook, a pamphlet and through postings throughout the facility (observed during the tour). All written documents are available in English and Spanish. Additional interpretive services are available for inmates who do not speak or read English. All interviews with staff, volunteers, contractors and inmates confirmed that each was aware of the Zero-Tolerance Policy towards all forms of sexual abuse/harassment. The commitment to the enforcement and implementation of PREA, along with an examination of policy and documentation supports the facility's compliance with this standard.

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

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

115.12 (a)

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

115.12 (b)

- Does any new contract or contract renewal signed on or after August 20, 2012 provide for agency contract monitoring to ensure that the contractor is complying with the PREA standards? (N/A if the agency does not contract with private agencies or other entities for the confinement of inmates OR the response to 115.12(a)-1 is "NO".) Yes No NA

Auditor Overall Compliance Determination

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

Does Not Meet Standard (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

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

The agency meets the requirements of Standard 115.12. A review of the documentation submitted confirmed the agency requires other entities contracted with for the confinement of inmates (privatized prisons and residential re-entry centers or "half-way houses") to adopt and comply with the PREA standards. All agency contractual agreements were modified to incorporate the language requiring all contractors to adopt and comply with PREA standards. MCC New York does not individually contract for the confinement of inmates.

Standard 115.13: Supervision and monitoring

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

115.13 (a)

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

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

115.13 (b)

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

115.13 (c)

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

115.13 (d)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

PS 3000.03, Human Resource Management Manual, the facility staffing report, and the Workforce Utilization Committee meeting minutes address all the requirements of Standard 115.13. A review of the facility staffing plan and the quarterly Salary and Workforce Utilization Committee meeting minutes for the previous 12 months confirmed that PREA issues were considered when filling positions and developing work rosters/assignments. Interviews with the Human Resource Manager and the Associate Warden/Institutional PREA Coordinator confirmed that the facility considers the items detailed in the Standard 115.13, when developing a staffing plan. The facility reviews the staffing plan at least quarterly. The IPCM is a member of the Salary and Workforce Utilization Committee and may provide input as to whether adjustments to the staffing plan may be required to meet PREA requirements.

There have been no judicial findings of inadequacy, findings of inadequacy from federal investigative agencies or findings of inadequacy from internal or external oversight bodies relevant to this standard. All essential posts are filled on each shift and no essential posts are kept open for salary savings. The review of Institution Duty Officer unannounced PREA rounds logs confirmed that intermediate-level or higher-level supervisors (department heads at a minimum) conduct and document such visits throughout the institution. Staff are prohibited from alerting other employees regarding unannounced rounds. Interviews with inmates and housing unit officers also confirmed that random, unannounced

rounds are conducted by Institution Duty Officers daily, including nights and weekends. During the tour, blind spots were identified on the living units which included the mop closets and behind the unit food serving lines. MCC New York corrected the deficiencies by adding mirrors in living units to eliminate blind spots. An examination of supporting documentation also confirms compliance to this standard.

Standard 115.14: Youthful inmates

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

115.14 (a)

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

115.14 (b)

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

115.14 (c)

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

Auditor Overall Compliance Determination

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

Does Not Meet Standard (Requires Corrective Action)

Instructions for Overall Compliance Determination Narrative

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

MCC New York does not house youthful inmates.

Standard 115.15: Limits to cross-gender viewing and searches

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

115.15 (a)

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

115.15 (b)

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

115.15 (c)

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

115.15 (d)

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

- Does the facility require staff of the opposite gender to announce their presence when entering an inmate housing unit? Yes No

115.15 (e)

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

115.15 (f)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

PS 5324.12, page 17 and PS 5521.06, Searches of Housing Units, Inmates and Inmate Work Areas address the requirements of the standard. The facility's overall rated capacity exceeds 50 inmates. MCC New York does not permit cross-gender strip searches or cross-gender visual body cavity searches, except in exigent circumstances or when performed by medical practitioners. There were no cross-gender visual body cavity or strip searches conducted in the facility during the audit period. Officers would be required to document all cross-gender strip searches and cross-gender visual body

cavity searches. Interviews with staff confirmed that they were aware of the prohibition of visual body cavity or strip searches of the inmates of the opposite sex except in exigent circumstances. Staff interviews also confirmed that female officers have been trained to conduct cross-gender pat searches. Confirmed by observations during the tour of all housing units, that inmates are permitted to shower, perform bodily functions and change clothing privately. The agency and facilities have an “announce” policy and procedures requiring staff of the opposite sex to announce their presence or otherwise notify the inmates when entering an inmate housing unit.

During the tour, the auditor noticed that some rooms on some living units did not provide privacy from cross-gender viewing for all inmates when using the toilet or changing clothes. The Acting Warden/PREA Compliance Manager indicated that the facility was actively replacing old wooden cell doors with more structurally secure doors which left some inmates visible when using the toilet and change clothes. In addition, on other living units shower curtains provided a solid linear barrier that encouraged the potential for sexual assault. The issues noted in this standard were corrected by the Acting Warden/PREA Compliance Manager prior to the completion of the audit.

Randomly Interviewed inmates confirmed that female staff announce their presence in this manner when entering a housing unit. The practice was observed during the tour of the entire facility. Employees do not search or physically examine a transgender or Intersex inmate for the sole purpose of determining the inmate’s genital status. Interviews with inmates confirmed that they had been pat-searched by officers properly and professionally. Interviews with random and specialized staff, observations and an examination of documentation such as the Staff Training Acknowledgement Form, confirm training in this area follows Standard 115.15.

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

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

115.16 (a)

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

and respond to sexual abuse and sexual harassment, including: inmates who have psychiatric disabilities? Yes No

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

115.16 (b)

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

115.16 (c)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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PS 5324.12 and the Admission and Orientation (A&O) Handbook address the requirements of this standard. Through policy and practice, MCC New York ensures that inmates with disabilities have an equal opportunity to participate in and benefit from all aspects of the agency's efforts to prevent, detect and respond to sexual abuse and sexual harassment. to included one hearing impaired inmate, two visually impaired inmate, three Limited English Proficient (LEP) inmates, two self-identified gay inmates and five inmates that reported sexual victimization during the intake risk screening process.

All inmates interviewed verified that they were instructed about PREA compliance and felt safe from sexual abuse to include the visually impaired inmates. All PREA related information, including postings, brochures and handouts are available in English and in Spanish which was confirmed through inmate interview of one non-English speaking inmate. Interviews with the non-English proficient inmates also confirmed the availability and use of the staff and telephonic interpretive services. As needed, the facility would employ an American Sign Language (ASL) Service for inmates who need assistance using sign language to communicate. The facility also employs staff who are proficient in languages other than English. The facility does not use inmate interpreters, inmate readers or other types of inmate assistants in the performance of first responder duties or during the investigation of an inmate's allegations. Interviews with first responders, medical, mental health and investigative staff confirmed their awareness of the prohibition for using inmate interpreters for PREA compliance functions. Interviews with staff and an examination of supporting documentation also confirm compliance to this standard.

Standard 115.17: Hiring and promotion decisions

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

115.17 (a)

- Does the agency prohibit the hiring or promotion of anyone who may have contact with inmates who has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997)? Yes No

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

115.17 (b)

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

115.17 (c)

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

115.17 (d)

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

115.17 (e)

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

115.17 (f)

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

115.17 (g)

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

115.17 (h)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

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

PS 3000.03, PS 3420.11, Standards of Employee Conduct, the Pre-Employment Guide, SF85P (Questionnaire for Public Trust Positions) and a BOP recruitment document address the requirements of the standard. All employees who have contact with inmates have had a background investigation in addition to finger printing and inquiry into the FBI's National Crime Information Center (NCIC). Re-check of employee backgrounds takes place every five years. Contractors and volunteers who have regular contact with inmates also have criminal background checks completed prior to having contact with inmates. Volunteer and contractor background checks are repeated yearly. The facility does not hire or promote anyone who may have contact with inmates and does not enlist the services of any contractor who may have contact with inmates who has engaged in any type of sexual abuse/harassment. Employees have a duty to disclose such misconduct and material omissions regarding such misconduct would be grounds for termination. Submission of false information by any applicant is grounds for not hiring the applicant.

The Human Resource Manager was interviewed and confirmed that the agency attempts to contact prior employers for information on substantiated allegations of sexual abuse or resignations which occurred during a pending investigation of sexual abuse. The Human Resource Manager also confirmed that the agency, not the MCC New York Human Resource Department, provides information on substantiated allegations of sexual abuse or sexual harassment involving a former employee upon receiving a request from an institutional employer for whom such employee has applied to work. The agency, not the MCC New York Human Resource Department, notifies appropriate licensing/certifying agencies when professional staff are terminated for substantiated allegations of sexual abuse or harassment. A review of policy and relevant supporting documentation also supports compliance to Standard 115.17.

Standard 115.18: Upgrades to facilities and technologies

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

115.18 (a)

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

115.18 (b)

- If the agency installed or updated a video monitoring system, electronic surveillance system, or other monitoring technology, did the agency consider how such technology may enhance the agency's ability to protect inmates from sexual abuse? (N/A if agency/facility has not installed or updated a video monitoring system, electronic surveillance system, or other monitoring

technology since August 20, 2012, or since the last PREA audit, whichever is later.)

Yes No NA

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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No substantial upgrades in technology has taken place since August 20, 2012 or the last PREA audit at MCC New York.

RESPONSIVE PLANNING

Standard 115.21: Evidence protocol and forensic medical examinations

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

115.21 (a)

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

115.21 (b)

- Is this protocol developmentally appropriate for youth where applicable? (N/A if the agency/facility is not responsible for conducting any form of criminal OR administrative sexual abuse investigations.) Yes No NA
- Is this protocol, as appropriate, adapted from or otherwise based on the most recent edition of the U.S. Department of Justice's Office on Violence Against Women publication, "A National

Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents,” or similarly comprehensive and authoritative protocols developed after 2011? (N/A if the agency/facility is not responsible for conducting any form of criminal OR administrative sexual abuse investigations.) Yes No NA

115.21 (c)

- Does the agency offer all victims of sexual abuse access to forensic medical examinations, whether on-site or at an outside facility, without financial cost, where evidentiarily or medically appropriate? Yes No
- Are such examinations performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) where possible? Yes No
- If SAFEs or SANEs cannot be made available, is the examination performed by other qualified medical practitioners (they must have been specifically trained to conduct sexual assault forensic exams)? Yes No
- Has the agency documented its efforts to provide SAFEs or SANEs? Yes No

115.21 (d)

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

115.21 (e)

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

115.21 (f)

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

115.21 (g)

- Auditor is not required to audit this provision.

115.21 (h)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

PS 5324.12, IS 5324.12b, the Guide for First Responder/Operations Lieutenant-When Approached with an Inmate Allegation of Sexual Abuse or Harassment, PS 6031.04, Patient Care and the PREA Checklist & Instructions address the requirements of standard. Interviews with correctional and health services personnel confirmed that they were all knowledgeable of the required procedures for obtaining, preserving and securing physical evidence, when sexual abuse is alleged. Staff were aware that the Special Investigative Service (SIS) Lieutenants, the Office of Internal Affairs (OIA), the Office of Inspector General (OIG) or the FBI (Federal Bureau of Investigation) conducted investigations relative to sexual abuse/harassment allegations. The agency follows a uniform evidence protocol as described in the U.S. Department of Justice's Office on Violence Against Women publication, "A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents". Victims of sexual assault are referred to health services for initial examination and treatment. Such treatment would be for life preservation only and the victim would be transported to a community hospital for examination, treatment and forensic evidence gathering by a SANE. All sexual abuse advocacy, examinations, treatment, testing and follow-up care is provided without cost to the victim. Facility staff members have been trained as victim advocates. Routinely, administrative investigations are conducted by trained investigators who are full time employees of the facility. The Warden generates the referral to the outside agency. A review of MCC New York training records confirmed that investigators have received investigator training offered by the BOP on the investigation of sexual abuse and harassment in confinement settings. Interviews with staff, a SANE nurse from Mount Sinai Beth Israel Hospital and examination of relevant documentation also confirm compliance to Standard 115.21.

Standard 115.22: Policies to ensure referrals of allegations for investigations

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

115.22 (a)

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

115.22 (b)

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

115.22 (c)

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

115.22 (d)

- Auditor is not required to audit this provision.

115.22 (e)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

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

Does Not Meet Standard (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

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PS 5324.12 addresses the requirement of Standard 115.22. The policy requires administrative or criminal investigations to be completed on all allegations of sexual abuse/harassment. Administrative investigations are routinely assigned to trained investigators working in Special Investigative Services (SIS) department. If, during an investigation, evidence surfaces indicating criminal misconduct, the case would be initially referred to the FBI for criminal investigation. The Special Investigative Agent (SIA) and Special Investigative Services Lieutenant were each interviewed, and both were aware of their responsibilities in the investigative process. The FBI would conduct criminal investigations for the facility involving inmate on inmate sexual abuse and the Office of the Inspector General (OIG) would investigate staff on inmate criminal sexual abuse. An investigation would never be terminated due to an inmate being transferred or released or an employee leaving the agency. MCC New York has an Evidence Recovery Team (ERT), which is a group of specially trained staff who would be called to a potential crime scene to preserve evidence. A review of training documents confirmed that all investigators received instruction in conducting sexual assault investigations in confined spaces/prisons. Interviews with staff, the investigators and an examination of training documentation, such as the Investigative Intelligence Training Records and training curriculum confirm the facility's compliance to this Standard 115.22.

TRAINING AND EDUCATION

Standard 115.31: Employee training

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

115.31 (a)

- Does the agency train all employees who may have contact with inmates on its zero-tolerance policy for sexual abuse and sexual harassment? Yes No
- Does the agency train all employees who may have contact with inmates on how to fulfill their responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures? Yes No
- Does the agency train all employees who may have contact with inmates on inmates' right to be free from sexual abuse and sexual harassment Yes No

- Does the agency train all employees who may have contact with inmates on the right of inmates and employees to be free from retaliation for reporting sexual abuse and sexual harassment? Yes No
- Does the agency train all employees who may have contact with inmates on the dynamics of sexual abuse and sexual harassment in confinement? Yes No
- Does the agency train all employees who may have contact with inmates on the common reactions of sexual abuse and sexual harassment victims? Yes No
- Does the agency train all employees who may have contact with inmates on how to detect and respond to signs of threatened and actual sexual abuse? Yes No
- Does the agency train all employees who may have contact with inmates on how to avoid inappropriate relationships with inmates? Yes No
- Does the agency train all employees who may have contact with inmates on how to communicate effectively and professionally with inmates, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming inmates? Yes No
- Does the agency train all employees who may have contact with inmates on how to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities? Yes No

115.31 (b)

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

115.31 (c)

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

115.31 (d)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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PS 5324.12 and IS 5324.12(b) address the requirements of this standard. All BOP employees are considered correctional workers and all new employees attend training locally and at the Federal Law Enforcement Training Center. This training addresses all the topics identified in the standard. Related education is provided annually during refresher training. The review of facility lesson plans, training logs and PREA Power Point presentations confirmed that the provided training also addressed all elements identified in the standard. Staff must acknowledge in writing their understanding of the PREA. Employees have PREA information noted on their desk computers and carry a PREA reference card. Staff annual training files were reviewed and contained documentation supporting compliance to this standard. All staff interviewed indicated that they received the required PREA training initially and annually. The Acting Warden has periodically issued memos (e-mails) to staff reminding them of and clarifying various PREA issues. Electronic staff meetings are also held, addressing PREA and other safety and security issues (transgender inmate management is a specific topic covered). Officers receive additional PREA training/updates quarterly and officers assigned to the Special Housing Unit (SHU) also receive additional training. The extensive training provided and staff knowledge of the PREA requirements confirm that the facility meets compliance requirements of Standard 115.31.

Standard 115.32: Volunteer and contractor training

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

115.32 (a)

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

115.32 (b)

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

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

115.32 (c)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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PS 5324.12 and IS 5324.12(b) address the requirements of Standard 115.32. The review of volunteer and contractor PREA training sign-in forms and other documents by the auditor confirmed that all facility contractors and volunteers have received training related to their responsibilities concerning the PREA (Zero-Tolerance, detection, prevention, response, and reporting requirements) during the previous twelve months and annual refresher instruction. Staff, contractor and volunteer randomly interviewed confirmed that training was provided, and that contractors and volunteers understood the agency's Zero-Tolerance Policy for sexual abuse/harassment and their responsibilities under the Prison Rape Elimination Act. A review of the PREA contractor and volunteer training curriculum confirmed that the level of instruction was appropriate for the services provided and the training included education on the facility's Zero-Tolerance of sexual abuse/harassment and the mandatory reporting policies.

Standard 115.33: Inmate education

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

115.33 (a)

- During intake, do inmates receive information explaining the agency's zero-tolerance policy regarding sexual abuse and sexual harassment? Yes No

- During intake, do inmates receive information explaining how to report incidents or suspicions of sexual abuse or sexual harassment? Yes No

115.33 (b)

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

115.33 (c)

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

115.33 (d)

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

115.33 (e)

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

115.33 (f)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

PS 5324.12 and IS 5324.12(b) address the requirements of this Standard 115.33. During in-processing procedures, each inmate receives an Inmate Handbook and a pamphlet describing the agency's PREA compliance program. The information identifies the key elements of the program and informs inmates of the zero-tolerance policy regarding sexual abuse and sexual assault and multiple ways to report sexual abuse/harassment. The information also informs the inmates that both male and female staff routinely work in and monitor the housing units. The information is available in English and Spanish. A staff member conducts an education program regarding the PREA for all inmates within 30 days of their arrival at the facility. The program includes definitions of sexually abusive behavior and sexual harassment, prevention strategies and reporting modalities. Inmates also view a comprehensive orientation video that explains the facilities Zero-Tolerance Policy and covers the inmate's right to be free from sexual abuse, sexual harassment and retaliation. Inmates also have access to TRULINCS, a computer program which also provides PREA information and can be used as a reporting outlet. Staff interpreters and telephonic translation services are available to inmates who are not proficient in English. Staff routinely conduct "town hall" meetings (group meetings that provide information and a question/answer session) in the housing units to address issues that may include PREA discussions. Inmates sampled during random interviews confirmed that they received PREA information and they were aware of numerous reporting methods to include anonymous and third-party reporting, the Zero-Tolerance Policy and their right to be free from retaliation. The tour of the facility confirmed that PREA education posters were prominently displayed in all housing units and common/program areas. Interviews with staff (random and specialized) and an examination of documentation also confirm that the facility meets compliance requirement with Standard 115.33.

Standard 115.34: Specialized training: Investigations

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

115.34 (a)

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

115.34 (b)

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

115.34 (c)

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

115.34 (d)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

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

Does Not Meet Standard (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

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PS 5324.12, the Special Investigative Service (SIS)/Special Investigative Agent (SIA) Training Lesson Plan, Sexual Violence PREA Training and DOJ/OIG PREA Training address the requirements of standard. MCC New York investigators, OIA, OIG and FBI have received PREA specialized training through the Department of Justice. The auditor reviewed specialized training documentation to include the SIS/SIA Training Instructor Guide, the BOP Course Completion List for Investigating Sexual Abuse in a Confinement Setting training and the OIG PREA Criminal Investigator Certification Training List. Administrative investigations are conducted by trained investigators who are full time employees of the facility. When criminal investigations are indicated, they are conducted by the Federal Bureau of Investigation (FBI) or the Office of the Inspector General (OIG). Interviews with staff, the SIS Investigators and a review of documentation confirm compliance with Standard 115.34.

Standard 115.35: Specialized training: Medical and mental health care

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

115.35 (a)

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

115.35 (b)

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

115.35 (c)

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

115.35 (d)

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

Auditor Overall Compliance Determination

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

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PS 5324.12 and IS 5324.12(b) address the requirements of Standard 115.35. When required, both medical and mental health providers at MCC New York are available for immediate call back to the facility during off duty hours. A review of medical and mental health personnel training records by the auditor confirmed that these employees receive the same PREA training as correctional officers and have and understand their duty to report any knowledge of sexual abuse/assault, even when disclosed during a health care encounter. Further, a review of training records confirmed that all mental health and medical staff have also received specialized training on victim identification, interviewing, reporting and required clinical interventions. Training does not refer to certifications needed to conduct forensic examinations. All cases requiring the processing of sexual assault evidence collection kits are transported to a community hospital where Sexual Abuse Nurse Examiners (SANE) are available always (a SANE was interviewed and confirmed access to these services). Interviews with medical and

mental health staff also confirmed the provision of specialized training and that they are aware of their duty to report and address allegations and suspicions of sexual abuse/harassment.

SCREENING FOR RISK OF SEXUAL VICTIMIZATION AND ABUSIVENESS

Standard 115.41: Screening for risk of victimization and abusiveness

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

115.41 (a)

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

115.41 (b)

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

115.41 (c)

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

115.41 (d)

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (1) Whether the inmate has a mental, physical, or developmental disability? Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (2) The age of the inmate? Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (3) The physical build of the inmate? Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (4) Whether the inmate has previously been incarcerated?
 Yes No

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (5) Whether the inmate's criminal history is exclusively nonviolent? Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (6) Whether the inmate has prior convictions for sex offenses against an adult or child? Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (7) Whether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming (the facility affirmatively asks the inmate about his/her sexual orientation and gender identity AND makes a subjective determination based on the screener's perception whether the inmate is gender non-conforming or otherwise may be perceived to be LGBTI)? Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (8) Whether the inmate has previously experienced sexual victimization? Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (9) The inmate's own perception of vulnerability? Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (10) Whether the inmate is detained solely for civil immigration purposes? Yes No

115.41 (e)

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

115.41 (f)

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

115.41 (g)

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

115.41 (h)

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

115.41 (i)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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PS 5324.12 addresses the requirements of Standard 115.41. All inmates are immediately assessed for a history of sexual abusiveness and risk of sexual victimization during the in-processing procedures performed in MCC New York's receiving and discharge (R&D) area. MCC New York's policy prohibits disciplining inmates for refusing to answer or for not disclosing complete information during the screening. A member of the inmate's housing unit team (case manager or counselor) screens all new arrivals within the first 72 hours of the inmate's arrival, but this activity ordinarily occurs on the day of

arrival. The review of screening documents by the auditor confirmed that inmates identified at high risk for sexual victimization or at risk of sexually abusing other inmates were referred to a mental health professional and all received further assessment. Staff also conduct screenings by reviewing records or other information from other facilities. A unit team member reviews all relevant information received from other facilities and continues to reassess an inmate's risk level within 30 days of his arrival. Information received during the screening process is deemed confidential and only available to staff with a need-to-know and never to other inmates. Specialized and random staff interviews, a review of relevant documentation such as the BOP Screening Form and the PREA Intake Screening Objective Instrument, and observations of the intake process confirmed the facility's compliance with Standard 115.41.

Standard 115.42: Use of screening information

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

115.42 (a)

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

115.42 (b)

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

115.42 (c)

- When deciding whether to assign a transgender or intersex inmate to a facility for male or female inmates, does the agency consider on a case-by-case basis whether a placement would

ensure the inmate's health and safety, and whether a placement would present management or security problems (NOTE: if an agency by policy or practice assigns inmates to a male or female facility based on anatomy alone, that agency is not in compliance with this standard)?
 Yes No

- When making housing or other program assignments for transgender or intersex inmates, does the agency consider on a case-by-case basis whether a placement would ensure the inmate's health and safety, and whether a placement would present management or security problems?
 Yes No

115.42 (d)

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

115.42 (e)

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

115.42 (f)

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

115.42 (g)

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

Auditor Overall Compliance Determination

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PS 5324.12 addresses the requirements of Standard 115.42. Risk screening information is used to determine housing, bed assignment, work assignment, education, and program assignments. Determinations for various assignments are made on a case-by-case basis. Staff assigned to conduct intake screenings have been provided additional training and resource materials. The agency (through a committee) decides whether to assign a transgender or intersex inmate to a facility for male or female inmates.

MCC New York's policy states that a transgender or intersex inmate's own view with respect to their own safety is given serious consideration when making program or housing assignments. MCC New York determines appropriate housing and programming assignments for transgender or intersex inmates on a case-by-case basis and careful deliberation is given to all assignments. Assignment considerations include whether a placement would ensure the inmate's health and safety and whether the placement would present management or security problems.

Staff interviews and support documentation indicated that medical and mental health staff meet on a regular basis to assess the status of any inmate thought to be at risk for victimization or inmates that are exhibiting institutional adjustment problems. The interview with the facility Acting Warden/PREA Compliance Manager also confirmed that a transgender inmate's genital status is not the sole criteria for placement in a specific facility. Placement and programming assignments for each transgender or intersex inmate would be reassessed at least once every six months.

The Acting Warden/PREA Compliance Manager also indicated that transgender and intersex inmates housed at MCC New York would be given the opportunity to shower, dress and use toilet facilities separately from other inmates. At the time of this audit zero inmates self-identified as transgender or intersex. In addition, interviews with thirty inmates (male/female), to include one hearing impaired inmate, two visually impaired inmate, three Limited English Proficient (LEP) inmates, two self-identified gay inmates and five inmates who reported sexual victimization during risk screening confirmed that all inmates could shower privately.

Interviews with staff, an examination of documentation/policy and the BOP over-site confirmed that MCC New York follows the requirements in Standard 115.42.

Standard 115.43: Protective Custody

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

115.43 (a)

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

115.43 (b)

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

115.43 (c)

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

115.43 (d)

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

115.43 (e)

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

Auditor Overall Compliance Determination

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Interviews with SHU officers and the SHU Lieutenant confirmed that to the extent possible, access to programs, privileges, education and work opportunities are not limited to inmates placed in the SHU for the purposes of protective custody, except when there are safety concerns. During the audit period, no inmates at risk for victimization were placed in the SHU. MCC New York would document the reason for the restricting access and the length of time the restriction would last. Mental health and the unit staff meet with each inmate placed in SHU status at least weekly. A Safeguarding of Inmates Alleging Sexual Abuse/Assault Allegation Form is completed, when applicable, to document all appropriate alternatives for safeguarding inmate victims. Interviews with staff sampled (random and specialized) during the on-site audit and an examination of documentation confirm staff’s understanding of Standard 115.43. During the on-site audit, a review of the SHU documentation confirmed the facility’s compliance with this standard.

REPORTING

Standard 115.51: Inmate reporting

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

115.51 (a)

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

115.51 (b)

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

115.51 (c)

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

115.51 (d)

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

Auditor Overall Compliance Determination

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

Does Not Meet Standard (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

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PS 5324.12 IS 5324.12(b), the Admission and Orientation (A&O) Handbook and PREA postings address the requirements of Standard 115.51. A review of documentation indicated that there are multiple ways (including verbally, in writing, privately, from a third party and anonymously) for inmates to internally report sexual abuse or harassment. Inmates (random and targeted) confirmed that they are informed about the reporting methods through the A&O Handbook, a display of various PREA notices affixed to bulletin boards located in each living unit and common area.

Inmates also have access to TRULINCS, a computer program which also provides PREA information and other internal reporting mechanisms. Through TRULINCS, the inmate can contact the Office of the Inspector General anonymously and the email is untraceable at the institution level. A sufficient number of TRULINCS computers and phones were observed in each housing unit at MCC New York. All staff (random and specialized) interviewed affirmed they would accept reports of sexual abuse/harassment from inmates made verbally, in writing, anonymously and from third parties. In addition, the same staff confirmed that they would promptly document any form of reporting and immediately notify their superior while keeping the inmate safe. Program Statement 5324.12-requires all staff to immediately document any allegation.

During the onsite tour, random inmates were selected from different living units to examine access to the external reporting entity identified by the facility to receive telephone reports of sexual abuse/harassment. The toll-free 1-800 number posted on the living units was inaccessible. Inmates involved in the test were unaware of why the number did not work. The A&O Handbook for inmates titled, "Telephone," page 44 indicated,

"...to use the telephone system, you (inmate) will have to transfer funds from your commissary account to your individual telephone account. There are phones located in each housing unit for your use. No third party, credit card calls, 1-800, 1-888, 1-900, or 1-976 can be made on these lines."

A review of a section of the inmate A&O Handbook titled "Contact your local Rape Crisis Center" (RCC), page 27 stated that the facility has an agreement with a rape crisis center in New York, The auditor found communication by phone for telephone counseling was inaccessible to inmates from the living units because of calling restrictions placed on toll-free 1-888, 1-800, 1-900, or 11-900 prefix numbers. The inmate handbook indicated that

"...psychology staff also provides inmates with confidential outside victim advocates for emotional support services related to sexual abuse and harassment by giving the inmates the toll-free hotline numbers for rape crisis advocates in the community. Moreover, page 27, indicated "...there are a couple of rape crisis hotlines available in the New York City area that can be contacted 24/7 for victims of sexual abuse including NYC WELL at 1-888-692-9355." At

best the reporting process is unclear, confusing and an inadvertent impediment to inmates at MCC New York.

Family and friends of inmates may report sexual abuse/harassment by using the BOP website, making a phone call to the OIG or contacting facility staff. All inmates sampled during the onsite audit confirmed that they were aware of multiple methods of how to internally report sexual abuse/assault allegations. Inmates at MCC New York are not detained solely for civil immigration purposes.

After interviews with staff and inmates, the review of supporting documentation and the implementation of a corrective action, MCC New York is now in compliance with Standard 115.51.

Standard 115.52: Exhaustion of administrative remedies

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

115.52 (a)

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

115.52 (b)

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

115.52 (c)

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

115.52 (d)

- Does the agency issue a final agency decision on the merits of any portion of a grievance alleging sexual abuse within 90 days of the initial filing of the grievance? (Computation of the

90-day time period does not include time consumed by inmates in preparing any administrative appeal.) (N/A if agency is exempt from this standard.) Yes No NA

- If the agency claims the maximum allowable extension of time to respond of up to 70 days per 115.52(d)(3) when the normal time period for response is insufficient to make an appropriate decision, does the agency notify the inmate in writing of any such extension and provide a date by which a decision will be made? (N/A if agency is exempt from this standard.)
 Yes No NA
- At any level of the administrative process, including the final level, if the inmate does not receive a response within the time allotted for reply, including any properly noticed extension, may an inmate consider the absence of a response to be a denial at that level? (N/A if agency is exempt from this standard.) Yes No NA

115.52 (e)

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

115.52 (f)

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

- After receiving an emergency grievance described above, does the agency issue a final agency decision within 5 calendar days? (N/A if agency is exempt from this standard.)
 Yes No NA
- Does the initial response and final agency decision document the agency's determination whether the inmate is in substantial risk of imminent sexual abuse? (N/A if agency is exempt from this standard.) Yes No NA
- Does the initial response document the agency's action(s) taken in response to the emergency grievance? (N/A if agency is exempt from this standard.) Yes No NA
- Does the agency's final decision document the agency's action(s) taken in response to the emergency grievance? (N/A if agency is exempt from this standard.) Yes No NA

115.52 (g)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

The Bureau of Prisons (BOP), PS 1330.18, Administrative Remedy Program addresses the requirements of Standard 115.52. Grievances (administrative remedies) filed alleging sexual abuse/harassment would result in the immediate opening of a formal investigation. The BOP policy states that there is no time limit for filing a grievance relating to sexual abuse or harassment and does not require an inmate to use any informal grievance process before filing an allegation involving sexual abuse/harassment. MCC New York, A&O Handbook for inmates titled, Problem Resolution, page 47, indicated

“...when an informal resolution is not successful, an inmate can access the Administrative Remedy Program. If the issue cannot be resolved, a formal complaint may be filed with a Request for Administrative Remedy commonly referred to as a BP-9. In addition, the same

section of the handbook indicated that ...if the grievance form contained multiple unrelated issues, the submission would be rejected, and the BP- 9 must be filed within 20 calendar days from the date on which the basis for the incident or complaint occurred, unless it was not feasible to file within that period of time the incident occurred.” Standard 115.52 (b) (1) indicates the agency shall not impose a time limit on when an inmate may submit a grievance regarding an allegation of sexual abuse.

Allegations of physical abuse by staff shall be referred to the Office of Internal Affairs (OIA) in accordance with procedures established for such referrals. PS 1330.18 addresses the filing of emergency administrative remedy requests. If an inmate files the emergency grievance with the institution and believes he/she is under a substantial risk of imminent sexual abuse, an expedited response is required by the BOP within 48 hours. The BOP’s program statement supports Standard 115.52 (2) however, MCC New York’s A&O Handbook for inmates titled, Problem Resolution, page 48 contradicts PS 1330.18, Administrative Remedy Program, page 15. MCC New York’s A&O Handbook titled General Information states,

“When a complaint is determined to be of an emergency and threatens the inmate’s immediate health and welfare, the reply (grievance/BP-9) must be made as soon as possible, usually within seventy-two (72) hours from receipt of the complaint. Best efforts are made to provide Regional Office and Central Office expedited appeal responses within five calendar days. If an inmate reasonably believes the issue is sensitive and the inmate’s safety or well-being would be placed in danger if the remedy became known at the institution, the inmate may submit the remedy directly to the appropriate Regional Office. Standard 115.52 (2), Exhaustion of administrative remedies, mandates an initial response within 48 hours and a final decision within 5 calendar days.”

There is no prohibition that limits third parties, including fellow inmates, staff members, family members, attorneys and outside advocates, in assisting inmates in filing requests for grievances relating to allegations of sexual abuse or filing such requests on behalf of inmates. A review of documentation related to grievances indicated there were zero grievances alleging sexual abuse/harassment filed within the last twelve months that resulted in disciplinary action at MCC New York.

After interviews with staff and inmates, a review of supporting documentation and the implementation of a corrective action, MCC New York is now in compliance with Standard 115.53.

Standard 115.53: Inmate access to outside confidential support services

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

115.53 (a)

- Does the facility provide inmates with access to outside victim advocates for emotional support services related to sexual abuse by giving inmates mailing addresses and telephone numbers, including toll-free hotline numbers where available, of local, State, or national victim advocacy or rape crisis organizations? Yes No

- Does the facility provide persons detained solely for civil immigration purposes mailing addresses and telephone numbers, including toll-free hotline numbers where available of local, State, or national immigrant services agencies? Yes No
- Does the facility enable reasonable communication between inmates and these organizations and agencies, in as confidential a manner as possible? Yes No

115.53 (b)

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

115.53 (c)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

PS 5324.12 addresses the requirements of Standard 115.53. The facility does not detain inmates solely for civil immigration purposes. MCC New York has entered into a service agreement with a local victim advocate organization to provide outside emotional support services to victims of sexual abuse. The agreement was confirmed through telephonic interview with a representative from the victim advocacy agency.

Problematic for MCC New York was the inadvertent impediment victims of sexual abuse face to access outside emotional support services. Telephonic communications from the living units to outside emotional services using the toll-free 1-800 number found in the A&O Handbook was inoperable. Reasonable communication and access for inmates was not available from the living units. The A&O Handbook for inmates titled, "Telephone," page 44 indicated,

"...to use the telephone system, you (inmate) will have to transfer funds from your commissary account to your individual telephone account. There are phones located in each housing unit for your use. No third party, credit card calls, 1-800, 1-888, 1-900, or 1-976 can be made on these lines." The numbers provided were inoperable from the living units because of calling restrictions put in place to 1-888 telephone numbers. Conversely, in the same A&O Handbook indicated that

"...psychology staff also provides inmates with confidential outside victim advocates for emotional support services related to sexual abuse and harassment by giving the inmates the toll-free hotline numbers for rape crisis advocates in the community. Moreover, page 27, indicated "...there a couple of rape crisis hotlines available in the New York City area that can be contacted 24/7 for victims of sexual abuse including NYC WELL at 1-888-692-9355." At best the reporting process is unclear, confusing and poses an unintentional impediment to MCC New York inmates seeking emotional services for prior victimizations in the community.

The corrective action included a revision to the inmate Admission & Orientation Handbook to reflect a clear process for inmates to report abuse or harassment to a public entity, the rape crisis hotline, which is a 1-888 number. The inmates understand they can now place calls by way of psychology staff, chaplaincy services or the assigned Unit Manager.

Facility staff members, including mental health treatment providers, have also been trained as victim advocates. Inmates are informed as part of their orientation process that all telephone calls (except properly placed legal calls) are subject to monitoring and recording and that all mail, except for legal mail, is subject to monitoring as well.

Through an electronic messaging system termed TRULINCS, inmates had the ability to email the Office of the Inspector General, by selecting the Department Mailbox titled DOJ Sexual Abuse. Postings in the housing units and common areas, the PREA pamphlet issued upon the inmate's arrival and the A&O Handbook provide the address to the OIG and explain that inmates may confidentially submit written allegations of sexual abuse/harassment to this entity. MCC New York is in compliance with Standard 115.53.

Standard 115.54: Third-party reporting

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

115.54 (a)

- Has the agency established a method to receive third-party reports of sexual abuse and sexual harassment? Yes No

- Has the agency distributed publicly information on how to report sexual abuse and sexual harassment on behalf of an inmate? Yes No

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

The BOP pamphlet "Sexually Abusive Behavior Prevention and Intervention", the Admission and Orientation Handbook, PREA posters throughout the facility, the posted Office of Inspector General Address and the BOP website: www.bop.gov addresses the requirement of the standard. The website and posted notices (inside of MCC New York living units and visiting room) inform third party reporters on how to report allegations of sexual abuse/harassment. During the onsite audit, interviews with random staff and inmates confirmed that both have a sufficient understanding that anonymous and third-party reporting procedures are acceptable sexual abuse/harassment reporting practices at MCC New York.

OFFICIAL RESPONSE FOLLOWING AN INMATE REPORT

Standard 115.61: Staff and agency reporting duties

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

115.61 (a)

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

- Does the agency require all staff to report immediately and according to agency policy any knowledge, suspicion, or information regarding any staff neglect or violation of responsibilities that may have contributed to an incident of sexual abuse or sexual harassment or retaliation? Yes No

115.61 (b)

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

115.61 (c)

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

115.61 (d)

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

115.61 (e)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

PS 5324.12 IS 5324.12(b) and PS 3420.11, pages 37 and 38 address the requirements of Standard 115.61. All staff, contractors and volunteers are required to report any information regarding sexual abuse or harassment or any staff neglect or violation that may contribute to an incident or an act of retaliation. The reporting is ordinarily made to the shift operations Lieutenant/supervisor. Policy requires that information concerning the identity of the alleged inmate victim and the specific facts of the case to be limited to staff who need-to-know to protect the victim and maintain the integrity of the investigative process. Interviews with employees, contractors and volunteers confirmed that all were aware and understood their reporting duties and responsibilities. Additional compliance with all aspects of Standard 115.61 was verified through document and policy review. It should be noted that MCC New York does not house inmates under the age of 18.

Standard 115.62: Agency protection duties

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

115.62 (a)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

PS 5324.12 addresses the requirements of Standard 115.62. Random and specialized staff interviews confirmed they were aware of their responsibilities when they become aware or suspect that an inmate is being or has been sexually abused or sexually harassed. Both random and specialized staff interviewed indicated they would act immediately to protect the inmate by separating and protecting the victim from the abuser, isolate the area (as a potential crime scene to preserve evidence) where the act allegedly occurred and would call the shift lieutenant for assistance. When notified, the interviewed shift lieutenants stated they would further protect the victim, notify medical and mental health staff and advise the Institution Duty Officer of the incident. In the past 12 months, there were no instances in which the facility staff determined that an inmate was subject to a substantial risk of imminent sexual abuse. Interviews with staff and an examination of documentation confirm compliance to this Standard

115.62. MCC New York's documentation confirmed during the on-site audit process that in the last 12 months there were zero determinations made that an inmate was subjected to a substantial risk of imminent sexual abuse.

Standard 115.63: Reporting to other confinement facilities

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

115.63 (a)

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

115.63 (b)

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

115.63 (c)

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

115.63 (d)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

PS 5324.12, pages 39 and 40, addresses the requirement of Standard 115.63. Policy requires the reporting of any PREA related allegation by an inmate that occurred at another facility. The Warden at the inmate's current facility is required to notify the Warden of the previous facility and an investigation is initiated. When an inmate reports sexual abuse/harassment from state, non-Bureau privatized facilities, jails, juvenile facilities and Residential Reentry Centers (half-way houses), the Acting Warden

contacts the appropriate office of the facility and/or notifies the Privatization Management or Residential Reentry Management Branch. The notification is to occur as soon as possible, but within 72 hours of receiving the allegation.

In the past twelve months, MCC New York received two allegations that an inmate was sexually abused while confined at another facility. MCC New York documented the incident and the auditor verified notification of the alleged incident to the inmate's previous facility. The Acting Warden/PREA Compliance Manager and SIA confirmed that the inmate's previous facility was aware of the inmate's allegation of sexual abuse/harassment and an investigation had already been initiated. The inmate was evaluated by a psychologist at the facility. Interviews with the Chief Psychologist and the Health Services Administrator also confirmed that each administrator understood the notification and documentation requirements for compliance with Standard 115.63.

Standard 115.64: Staff first responder duties

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

115.64 (a)

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

115.64 (b)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

PS 5324.12, page 40 and IS 5324.12(b), address the requirements of Standard 115.64. All random and specialized staff interviewed were knowledgeable concerning their first responder responsibilities required and the actions necessary, when learning of an allegation of sexual abuse/harassment. All staff (random and specialized) persons interviewed during the on-site audit, indicated they would separate the inmates, secure the area as a crime scene, not allow inmates to destroy any physical evidence and contact the Shift Lieutenant. The Shift Lieutenant would continue to protect the inmate, notify medical, mental health, the Emergency Response Team and executive staff only. Within the last year, there were nine (9) incidents requiring staff to act as a first responder to an allegation of sexual abuse/harassment (security staff only). Interviews with staff (random and specialized) and an examination of documentation confirm compliance with Standard 115.64.

Standard 115.65: Coordinated response

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

115.65 (a)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

PS 5324.12, One Source Coordinated Guide and IS 5324.12(b) address the requirements of Standard 115.65. A pamphlet titled "One Source First Responder Reference Guide-Sexual Assault Crisis Intervention" provides guidance to employees regarding the expected coordinated actions to take place in response to an incident of sexual abuse/harassment. Lieutenants use a PREA checklist to aid in their response to allegations of sexual abuse/harassment. The policies and information provide direction to security, medical/mental health practitioners, investigators, staff and community victim advocates, community service providers, and facility leadership. Staff (specialized and random) and service providers interviewed confirmed that they were knowledgeable regarding their responsibilities in the event of a coordinated response. An examination of documentation also confirms compliance to Standard 115.65.

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

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

115.66 (a)

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

115.66 (b)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

The Collective Bargaining Agreement (CBA), Memorandum of Certification, between the Federal Bureau of Prisons and Council of Prison Locals, American Federation of Government Employees, dated July 21, 2014-July 20, 2017, was examined by the auditor and found to comply with Standard 115.66. The agreement does not limit the agency's ability to remove alleged staff sexual abusers from contact with any inmates pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted. The auditor was advised that the CBA is currently being renegotiated and will contain the required language in its final form.

Standard 115.67: Agency protection against retaliation

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

115.67 (a)

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

115.67 (b)

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

115.67 (c)

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

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

115.67 (d)

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

115.67 (e)

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

115.67 (f)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

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

Does Not Meet Standard (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

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

PS 5324.12, BOP National Standards to Prevent, Detect and Respond to Prison Rape (PREA), pages 42 and 43 and Institution Supplement, pages 6 and 11, address the requirements of Standard 115.67. MCC New York and BOP Policy confirm the agency's intent to protect an inmate or staff person from retaliation. The agency and facility prohibit any type of retaliation against any staff or inmate who has reported sexual abuse, sexual harassment or cooperated in any related investigation. The Acting Warden/IPM is the designated retaliation monitor.

During the onsite audit, the IPCM confirmed that she would document and follow up on all potential cases of retaliation to ensure policy is being enforced. In addition, the IPCM (retaliation monitor) confirmed that she would conduct frequent periodic status checks on the inmate or staff member, monitor incident reports, housing reassignments and negative performance reviews/staff job reassignments for up to 90 days. If there was a concern that there was a potential for possible retaliation, the IPCM indicated she would monitor the situation indefinitely. There have been no suspected or actual incidents of retaliation in the last 12 months. Facility compliance with Standard 115.67 was determined by a review of policy, staff interviews (random and specialized), to include the IPCM.

Standard 115.68: Post-allegation protective custody

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

115.68 (a)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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PS 5324.12 addresses the requirement of Standard 115.68. MCC New York's policy requires staff to assess and consider all appropriate alternatives for safeguarding alleged inmate victims of sexual abuse/harassment. Staff must first consider other alternatives based on the circumstances of the allegation before considering placing an inmate in protective custody (SHU). This consideration includes placing the inmate in another housing unit or transferring the inmate to another federal correctional facility. To aid in that decision, policy requires the facility to complete the BOP's Safeguarding of Inmates Alleging Sexual Abuse/Assault Allegation form. The form serves to document consideration of all options. Interviews with staff and the tour of the facility confirmed that there are usually viable alternatives to placing victims of sexual abuse/harassment in involuntary segregated housing (SHU). To the extent possible, access to programs, privileges, education and work opportunities are not limited to inmates placed in a SHU for the purposes of protective custody. The facility would document the reasons for restricting access and the length of time the restrictions would last. There were zero inmates placed in post-allegation protective custody status within the last twelve months. Compliance with this standard was determined by a review of policy during the onsite audit, SHU documentation, and staff interviews, coupled with a memorandum from the Warden validating involuntary segregation was not utilized to separate inmate victims from abuser during the review period.

INVESTIGATIONS

Standard 115.71: Criminal and administrative agency investigations

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

115.71 (a)

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

115.71 (b)

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

115.71 (c)

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

115.71 (d)

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

115.71 (e)

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

115.71 (f)

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

115.71 (g)

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

115.71 (h)

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

115.71 (i)

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

115.71 (j)

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

115.71 (k)

- Auditor is not required to audit this provision.

115.71 (l)

- When an outside entity investigates sexual abuse, does the facility cooperate with outside investigators and endeavor to remain informed about the progress of the investigation? (N/A if an outside agency does not conduct administrative or criminal sexual abuse investigations. See 115.21(a).) Yes No NA

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

PS 5324.12 pages 43, 44 and 45, address the requirements of the Standard 115.71. The facility's investigators (SIS) may conduct administrative investigations within the facility and were interviewed by the auditor. When an allegation appears to be criminal in nature, the SIS, in conjunction with the BOP's Office of Internal Affairs and the facility Warden, will refer the incident to the FBI for a criminal investigation if the investigation involves an inmate on inmate allegation. Staff-on-inmate criminal investigations are conducted by the Office of the Inspector General. The FBI or OIG investigator consults with the Assistant U.S. Attorney when necessary. If the FBI or OIG substantiates the allegation, the case is referred to the local United States Attorney for possible prosecution. During the current auditing period, there were a total of 4 reported allegations of sexual abuse/sexual harassment. Of the four cases reported, two were found to be unsubstantiated and two were determined to be unfounded. Two cases were inmate-on-inmate allegations and two were staff-on-inmate. At the time of

the audit, there were no open cases. This information was confirmed by an interview with the SIS during the onsite audit. The credibility of an alleged victim, suspect or witness is assessed on an individual basis and is not determined by the person's status as inmate or staff.

The agency does not require an inmate who alleges sexual abuse to submit to a polygraph examination or other truth assessment device as a condition for proceeding with the investigation of such an allegation. Compliance with Standard 115.71 was determined by a review of PS 5324.12, a review of criminal and administrative investigations, a staff interview with SIS and the PREA Compliance Manager.

Standard 115.72: Evidentiary standard for administrative investigations

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

115.72 (a)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

PS 5324.12, page 45, addresses the requirement of Standard 115.72. The evidentiary measure for this standard is a "preponderance of the evidence" in determining whether allegations of sexual abuse or sexual harassment are substantiated. The SIS investigator was aware of the evidentiary standard of measure requirement in determining whether allegations of sexual abuse/sexual harassment are substantiated. Additional SIS staff interviewed during the audit confirmed an awareness of the evidentiary standard of measure. They also confirmed that they utilized the preponderance of evidence in her role as SIS and in the review of sexual abuse/harassment investigative case files during this audit review period.

Standard 115.73: Reporting to inmates

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

115.73 (a)

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

115.73 (b)

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

115.73 (c)

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

115.73 (d)

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

alleged abuser has been convicted on a charge related to sexual abuse within the facility?
 Yes No

115.73 (e)

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

115.73 (f)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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PS 5324.12, pages 45 and 46, and the PREA Tracking Log, address the requirements of the Standard 115.73. MCC New York conducts administrative investigations when needed. There were four allegations of inmate sexual abuse/harassment completed during this audit review period. A review of investigative documentation confirmed the above statement. MCC New York has a policy that requires that inmates are informed in writing regarding the results of PREA investigation. When the allegation involves staff, the inmate would be informed if the staff member is no longer posted within their housing unit, is no longer employed at this facility, if the staff member was indicted on a charge related to sexual abuse within the facility or the agency learned that the staff member was convicted on a charge related to sexual abuse within the facilities. Facility compliance with Standard 115.73 was determined by a review of policy and investigative documentation and staff interviews.

DISCIPLINE

Standard 115.76: Disciplinary sanctions for staff

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

115.76 (a)

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

115.76 (b)

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

115.76 (c)

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

115.76 (d)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

PS 3420.11, pages 6 and 7, and PS 5324.12 address the requirements of Standard 115.76. All employees are subject to disciplinary sanctions for violating agency sexual abuse or sexual harassment policies. There have been no cases of inmates engaging in sex with staff in the last twelve months. The Collective Bargaining Agreement (examined by auditor) between the Federal Bureau of Prisons and Council of Prison Locals, American Federation of Government Employees, dated July 21, 2014-

July 20, 2017, allows for disciplinary sanctions against staff, including termination, for the sexual abuse or sexual harassment of an inmate. All terminations for violations of agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, may be reported to criminal investigators and to any relevant professional/certifying/licensing agencies by the agency, unless the activity was clearly not criminal. Facility compliance with this standard was determined by a review of policy and documentation and staff interviews. In the past 12-month period, MCC New York documented zero disciplinary sanctions for violating the agency's sexual abuse or sexual harassment policies. A review of support documentation, to include a sample of terminations and resignations, confirmed the facility's compliance with this standard.

Standard 115.77: Corrective action for contractors and volunteers

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

115.77 (a)

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

115.77 (b)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

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

PS 3420.11, pages 6 and 7, PS 5324.12 and MCC New York's Memorandum confirming no reports of alleged sexual abuse by volunteer of contractor, address the requirements of Standard 115.77. Any contractor or volunteer who engages in sexual abuse/harassment would be prohibited from contact with inmates and would be reported to the appropriate investigator and relevant professional/licensing/certifying bodies unless the activity was clearly not criminal in nature. In cases that were not criminal in nature, the facility would take appropriate remedial measures and consider whether to prohibit further contact with inmates. During the previous 12-month review period, there were no incidents where a contractor or volunteer was accused or found guilty of sexual abuse or sexual harassment at MCC New York. Compliance with Standard 115.77 was determined by a review of facility and BOP policies and staff interviews (Human Resource Manager and PREA Compliance Manager).

Standard 115.78: Disciplinary sanctions for inmates

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

115.78 (a)

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

115.78 (b)

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

115.78 (c)

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

115.78 (d)

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

115.78 (e)

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

115.78 (f)

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

115.78 (g)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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PS 5270.09, Inmate Discipline Program and PS 5324.12, page 48, and the MCC New York Acting Warden's Memorandum confirming zero cases of alleged sexual abuse by a volunteer or contractor address the requirements of the standard. The Inmate Discipline Program defines sexual assault of any person, involving non-consensual touching by force or threat of force, as the greatest severity level prohibited act. The program identifies inmates engaging in sexual acts and making sexual proposals or threats to another as a high severity level prohibited act. Consensual sex or sexual harassment of any nature is prohibited and will result in discipline. Consensual sex between inmates does not constitute sexual abuse. Sanctions are commensurate with the nature and circumstances of the abuse committed. Sanctions are commensurate with the nature and circumstances of the abuse committed, the inmate's disciplinary history and the sanctions imposed for comparable offenses by other inmates with similar histories. Inmates are subject to disciplinary sanctions pursuant to the formal disciplinary process defined in the Inmate Discipline Program. The BOP does not discipline inmates who make an allegation in good faith, even if an investigation does not establish evidence sufficient to substantiate the allegation.

Interviews with investigators confirmed compliance with the standard. The disciplinary process considers whether an inmate's mental disabilities or mental illness contributed to the inmate's behavior when determining what type of sanction, if any, should be imposed. If mental disabilities or mental

illness is a factor, the facility considers the offer of therapy, counseling or other interventions designed to address and correct underlying reasons or motivations for the abuse. Facility compliance with this standard was determined by a review of the facility and BOP policies and documentation, interviews with staff (investigators) and random inmate interviews.

MEDICAL AND MENTAL CARE

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

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

115.81 (a)

- If the screening pursuant to § 115.41 indicates that a prison inmate has experienced prior sexual victimization, whether it occurred in an institutional setting or in the community, do staff ensure that the inmate is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening? Yes No

115.81 (b)

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

115.81 (c)

- If the screening pursuant to § 115.41 indicates that a jail inmate has experienced prior sexual victimization, whether it occurred in an institutional setting or in the community, do staff ensure that the inmate is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening? Yes No

115.81 (d)

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

115.81 (e)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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PS 5324.12, pages 29, 30, 32, and 49, medical and mental health screening instruments, a review of risk instruments, inmate interviews and intake staff interviews, address the requirements of the standard. Interviews with medical, mental health and specialized staff also confirm the facility has a comprehensive system for collecting medical and mental health information relevant to the PREA and has the capacity to provide continued re-assessment and follow-up services. The review of psychology's "Risk of Sexual Victimization" and "Risk of Sexual Abusiveness" forms confirmed that inmates who disclosed prior victimization during screening were offered a follow up screening with medical or mental health staff within fourteen days. The screening is usually completed on the same day or within three days. Treatment services are offered without financial cost to the inmate. As confirmed by observation and a review of intake screening documents, screening for prior sexual victimization in any setting is conducted by unit team staff during in-processing procedures. In-processing procedures also screen for previous sexually assaultive behavior in an institutional setting or in the community. When indicated, inmates are offered a follow-up meeting with a mental health practitioner within fourteen days of the intake screening. Information related to sexual victimization or abusiveness is limited to medical and mental health practitioners and other staff with a need-to-know for treatment plans, security, housing, work, program assignments and management decisions. Signed and dated informed consents are obtained from inmates before reporting prior sexual victimization that did not occur in an institutional setting. MCC New York does not house inmates under the age of 18. Facility compliance with standard was determined by a review of policy, documentation and staff and inmate interviews.

Standard 115.82: Access to emergency medical and mental health services

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

115.82 (a)

- Do inmate victims of sexual abuse receive timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by

medical and mental health practitioners according to their professional judgment?

Yes No

115.82 (b)

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

115.82 (c)

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

115.82 (d)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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PS 5324.12, page 52, IS 5324.12(b) and PS 6031.04 address the requirements of Standard 115.82. The facility medical and mental health personnel provide services to the MCC New York. Medical personnel are on duty 16 hours a day, seven days a week and are available for consultation or call-back at off hours. Mental health providers are on-site five days per week and are also available for call-back at off hours. Inmate victims of sexual abuse receive timely, unimpeded access to emergency medical/mental health treatment and crisis intervention services within the facility or are transported to a hospital in the community when health care needs exceed the level of care available within the

institution. Victim advocacy is offered through community providers or trained staff members. There is no financial cost to the inmate for any sexual abuse/harassment related incident medical, mental health care, and/or advocacy service, regardless of whether the victim names the abuser. Inmate victims of sexual abuse while incarcerated are offered information about and timely access to information on sexually transmitted infection prophylaxis in accordance with professionally accepted standards of care, where medically appropriate. There were zero allegations of sexual abuse that required referral for forensic evidence collection by a SANE in the last year. Facility compliance with this standard was determined by a review of policy and documentation, as well as, interviews with a Sexual Assault Nurse Examiner, a community victim advocate and specialized medical and mental health staff.

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

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

115.83 (a)

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

115.83 (b)

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

115.83 (c)

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

115.83 (d)

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

115.83 (e)

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

115.83 (f)

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

115.83 (g)

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

115.83 (h)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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PS 5324.12, page 51, MCC New York's policy on ongoing Medical/Mental Health Treatment of Victims and Abusers addresses the requirement of Standard 115.83. As confirmed by a review of policies, the facility may offer medical and mental health evaluation and as appropriate, treatment to all inmates who have been victimized by sexual abuse in any prison, jail, lockup or juvenile facility. Inmates are also re-evaluated within 30 days of admission to the facility. The evaluation and treatment of such victims includes follow-up services. The facility would arrange for referrals for continued care following their transfer to or placement in other facilities or after their release from custody. The facility has fully staffed medical and mental health departments and offer sexual abuse/harassment victims with medical and mental health services consistent with the standard of care available in the community. Inmate victims, while incarcerated, would be offered testing for sexually transmitted infections as medically appropriate. Treatment services are provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident. Mental health evaluations are conducted on all known inmate-on-inmate abusers at least within 14 days of learning of such abuse history, but usually immediately when staff become aware of this information. When appropriate, treatment is offered by mental health practitioners. Facility compliance with this standard was determined by a review of policy and documentation and specialized staff (medical and mental health) interviews.

DATA COLLECTION AND REVIEW

Standard 115.86: Sexual abuse incident reviews

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

115.86 (a)

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

115.86 (b)

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

115.86 (c)

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

115.86 (d)

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

115.86 (e)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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PS 5324.12, pages 52 and 53, reviews of incident logs, administrative investigations, and support memorandums address the requirements of this standard. Administrative and/or criminal investigations are completed on all allegations of sexual abuse/sexual harassment. The facility investigators and/or the FBI/OIG/OIA conduct all investigations. Interviews with the SIS staff confirmed that they were knowledgeable concerning the requirements of the program and that they provided information to the Incident Review Team. The facility conducts a sexual abuse incident review at the end of every sexual abuse investigation unless the allegation was determined to be unfounded. The Incident Review Team consists of the, the Human Resource Manager, Chief Psychologist, Health Services Administrator, Unit Manager, SIA and other administrative staff. Based on interviews with members of the Incident Review Team, the review is conducted within 30 days of the conclusion of the investigation and consideration is given as to whether the incident was motivated by race, ethnicity, gender identity, and status or gang affiliation. The team also decides as to whether additional monitoring technology or staffing should be added to enhance inmate supervision. The facility implements the recommendations for improvement or documents its reasons for not doing so. All required reviews by the team were completed within 30 days of the conclusion of all investigations. Compliance with this standard was determined by a review of policy and documentation, as well as specialized and random staff interviews.

Standard 115.87: Data collection

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

115.87 (a)

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

115.87 (b)

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

115.87 (c)

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

115.87 (d)

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

115.87 (e)

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

115.87 (f)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

PS 5324.12, page 54 and 55, addresses the requirements of Standard 115.87. As confirmed by a review of documents, the facility collects accurate, uniform data for every allegation of sexual abuse/sexual harassment by using a standardized instrument. The agency tracks information concerning sexual abuse using data from the facilities Special Investigative Services (SIS) department,

the agency's Office of Internal Affairs and SENTRY, the BOP's computerized data management program. The data collected includes the information necessary to answer all questions from the most recent version of the Survey of Sexual Violence, conducted by the Department of Justice. The agency aggregates and reviews all data annually. Upon request, the agency would provide all such data from the previous calendar year to the Department of Justice no later than June 30. Facility compliance with this standard was also determined by a review of policy, a review of tracking documentation and staff interviews.

Standard 115.88: Data review for corrective action

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

115.88 (a)

- Does the agency review data collected and aggregated pursuant to § 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by: Identifying problem areas? Yes No
- Does the agency review data collected and aggregated pursuant to § 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by: Taking corrective action on an ongoing basis? Yes No
- Does the agency review data collected and aggregated pursuant to § 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by: Preparing an annual report of its findings and corrective actions for each facility, as well as the agency as a whole? Yes No

115.88 (b)

- Does the agency's annual report include a comparison of the current year's data and corrective actions with those from prior years and provide an assessment of the agency's progress in addressing sexual abuse? Yes No

115.88 (c)

- Is the agency's annual report approved by the agency head and made readily available to the public through its website or, if it does not have one, through other means? Yes No

115.88 (d)

- Does the agency indicate the nature of the material redacted where it redacts specific material from the reports when publication would present a clear and specific threat to the safety and security of a facility? Yes No

Auditor Overall Compliance Determination

Exceeds Standard (*Substantially exceeds requirement of standards*)

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

Instructions for Overall Compliance Determination Narrative

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

PS 5324.12 addresses the requirements of Standard 115.68. The Federal Bureau of Prisons and the institution reviews and assesses all sexual abuse/sexual harassment data at least annually to improve the effectiveness of its sexual abuse prevention, detection and response policies, to identify any trends, issues or problematic areas and to take corrective action if needed. The IPCM forwards data to the respective BOP Regional PREA Coordinator, who in turn forwards all regional results to the National BOP PREA Coordinator. An Annual Report is prepared and placed on the BOP website. The Annual Report was reviewed by the auditor. The report can be found at the following website address: www.bop.gov. Facility compliance with this Standard 115.86 was determined by a review of policy, a review of data and staff interviews.

Standard 115.89: Data storage, publication, and destruction

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

115.89 (a)

- Does the agency ensure that data collected pursuant to § 115.87 are securely retained?
 Yes No

115.89 (b)

- Does the agency make all aggregated sexual abuse data, from facilities under its direct control and private facilities with which it contracts, readily available to the public at least annually through its website or, if it does not have one, through other means? Yes No

115.89 (c)

- Does the agency remove all personal identifiers before making aggregated sexual abuse data publicly available? Yes No

115.89 (d)

- Does the agency maintain sexual abuse data collected pursuant to § 115.87 for at least 10 years after the date of the initial collection, unless Federal, State, or local law requires otherwise? Yes No

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

PS 5324.12, pages 56 and 57, addresses the requirement of the Standard 115.89. The National PREA Coordinator reviews data compiled by each BOP facility, from SENTRY, from each Regional PREA Coordinator, from the Information, Policy, and Public Affairs Division of the BOP and from the Office of Internal Affairs and issues a report to the Director on an annual basis. Facility data is maintained in locked files or on computer data bases that are user ID and password protected. Agency PREA data is securely retained and is published on the BOP website after removing all personal identifying information. The required reports cover all data required in this standard and are retained in a file. Compliance with this standard was determined by a review of policy, documentation and staff interviews.

AUDITING AND CORRECTIVE ACTION

Standard 115.401: Frequency and scope of audits

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

115.401 (a)

- During the three-year period starting on August 20, 2013, and during each three-year period thereafter, did the agency ensure that each facility operated by the agency, or by a private organization on behalf of the agency, was audited at least once? (N/A before August 20, 2016.)
 Yes No NA

115.401 (b)

- During each one-year period starting on August 20, 2013, did the agency ensure that at least one-third of each facility type operated by the agency, or by a private organization on behalf of the agency, was audited? Yes No

115.401 (h)

- Did the auditor have access to, and the ability to observe, all areas of the audited facility? Yes No

115.401 (i)

- Was the auditor permitted to request and receive copies of any relevant documents (including electronically stored information)? Yes No

115.401 (m)

- Was the auditor permitted to conduct private interviews with inmates, residents, and detainees? Yes No

115.401 (n)

- Were inmates permitted to send confidential information or correspondence to the auditor in the same manner as if they were communicating with legal counsel? Yes No

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

This is the second PREA audit for MCC New York. The date of the last agency PREA review was August 2015. MCC New York allowed the auditor to conduct private interviews with both inmates and staff.

Standard 115.403: Audit contents and findings

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

115.403 (f)

- The agency has published on its agency website, if it has one, or has otherwise made publicly available, all Final Audit Reports within 90 days of issuance by auditor. The review period is for prior audits completed during the past three years PRECEDING THIS AGENCY AUDIT. In the case of single facility agencies, the auditor shall ensure that the facility's last audit report was published. The pendency of any agency appeal pursuant to 28 C.F.R. § 115.405 does not excuse noncompliance with this provision. (N/A if there have been no Final Audit Reports issued in the past three years, or in the case of single facility agencies that there has never been a Final Audit Report issued.) Yes No NA

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

MCC New York has fully implemented all policies, practices and procedures outlined in the PREA standards. The Auditor reviewed applicable standards and, through the review of support documentation, interviews with staff and inmates and the observation of physical evidence, concluded that this facility fully meets and substantially complies in all material ways with the PREA standards for the relevant review period. The agency has posted all audit reports on its website within ninety days of completion. The public has access to reporting mechanisms and BOP PREA trends data via the BOP website. MCC New York currently meets all applicable standards and no corrective actions are required.

AUDITOR CERTIFICATION

I certify that:

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

Auditor Instructions:

Type your full name in the text box below for Auditor Signature. This will function as your official electronic signature. Auditors must deliver their final report to the PREA Resource Center as a searchable PDF format to ensure accessibility to people with disabilities. Save this report document into a PDF format prior to submission.¹ Auditors are not permitted to submit audit reports that have been scanned.² See the PREA Auditor Handbook for a full discussion of audit report formatting requirements.

Sonya Love
Auditor Signature

May 18, 2018
Date

¹ See additional instructions here: <https://support.office.com/en-us/article/Save-or-convert-to-PDF-d85416c5-7d77-4fd6-a216-6f4bf7c7c110>.

² See *PREA Auditor Handbook*, Version 1.0, August 2017; Pages 68-69.