

# Prison Rape Elimination Act (PREA) Audit Report Community Confinement Facilities

Interim     Final

**Date of Report**    September 26, 2019

## Auditor Information

<b>Name:</b> K. E. Arnold	<b>Email:</b> kenarnold220@gmail.com
<b>Company Name:</b> KEA Correctional Consulting LLC	
<b>Mailing Address:</b> P.O. Box 1872	<b>City, State, Zip:</b> Castle Rock, CO 80104
<b>Telephone:</b> 484-999-4167	<b>Date of Facility Visit:</b> January 28-30, 2019

## Agency Information

<b>Name of Agency:</b> Mesa County Criminal Justice Services	<b>Governing Authority or Parent Agency (If Applicable):</b> Mesa County		
<b>Physical Address:</b> 650 South Avenue	<b>City, State, Zip:</b> Grand Junction, CO 81501		
<b>Mailing Address:</b> PO Box 20,000	<b>City, State, Zip:</b> Grand Junction, CO 81501		
<b>Telephone:</b> 970-244-3301	<b>Is Agency accredited by any organization?</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
<b>The Agency Is:</b>	<input type="checkbox"/> Military	<input type="checkbox"/> Private for Profit	<input type="checkbox"/> Private not for Profit
<input type="checkbox"/> Municipal	<input checked="" type="checkbox"/> County	<input type="checkbox"/> State	<input type="checkbox"/> Federal
<b>Agency mission:</b> See Report Narrative			
<b>Agency Website with PREA Information:</b> <a href="http://cjsd.mesacounty.us/PREA.aspx">http://cjsd.mesacounty.us/PREA.aspx</a>			

## Agency Chief Executive Officer

<b>Name:</b> Matthew Sullivan	<b>Title:</b> Interim Department Director
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<b>Email:</b> <a href="mailto:matthew.sullivan@mesacounty.us">matthew.sullivan@mesacounty.us</a>	<b>Telephone:</b> 970-244-3331
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**Agency-Wide PREA Coordinator**

<b>Name:</b> Eileen Wygant	<b>Title:</b> Quality Assurance and PREA Coordinator
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<b>Email:</b> <a href="mailto:eileen.wygant@mesacounty.us">eileen.wygant@mesacounty.us</a>	<b>Telephone:</b> 970-244-3302
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<b>PREA Coordinator Reports to:</b> Interim Director	<b>Number of Compliance Managers who report to the PREA Coordinator:</b> NA
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**Facility Information**

**Name of Facility:** Mesa County Community Corrections

**Physical Address:** 650 South Avenue, Grand Junction, CO 81501

**Mailing Address (if different than above):** PO Box 20,000

**Telephone Number:** 970-244-3301

<b>The Facility Is:</b>	<input type="checkbox"/> Military	<input type="checkbox"/> Private for Profit	<input type="checkbox"/> Private not for Profit
<input type="checkbox"/> Municipal	<input checked="" type="checkbox"/> County	<input type="checkbox"/> State	<input type="checkbox"/> Federal

<b>Facility Type:</b>	<input type="checkbox"/> Community treatment center	<input type="checkbox"/> Halfway house	<input type="checkbox"/> Restitution center
	<input type="checkbox"/> Mental health facility	<input type="checkbox"/> Alcohol or drug rehabilitation center	
	<input checked="" type="checkbox"/> Other community correctional facility		

**Facility Mission:** See Report Narrative

**Facility Website with PREA Information:** <http://cjsd.mesacounty.us/PREA.aspx>

**Have there been any internal or external audits of and/or accreditations by any other organization?**  Yes  No

**Director**

<b>Name:</b> Matthew Sullivan	<b>Title:</b> Interim Department Director
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<b>Email:</b> <a href="mailto:matthew.sullivan@mesacounty.us">matthew.sullivan@mesacounty.us</a>	<b>Telephone:</b> 970-244-3331
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**Facility PREA Compliance Manager**

<b>Name:</b> Same as PREA Coordinator		<b>Title:</b> Same as PREA Coordinator	
<b>Email:</b> Same as PREA Coordinator		<b>Telephone:</b> Same as PREA Coordinator	
<b>Facility Health Service Administrator</b>			
<b>Name:</b> NA		<b>Title:</b> NA	
<b>Email:</b> NA		<b>Telephone:</b> NA	
<b>Facility Characteristics</b>			
<b>Designated Facility Capacity:</b> 244		<b>Current Population of Facility:</b> 202	
<b>Number of residents admitted to facility during the past 12 months</b>			413
<b>Number of residents admitted to facility during the past 12 months who were transferred from a different community confinement facility:</b>			399/approx. 14 were internal program changes
<b>Number of residents admitted to facility during the past 12 months whose length of stay in the facility was for 30 days or more:</b>			399
<b>Number of residents admitted to facility during the past 12 months whose length of stay in the facility was for 72 hours or more:</b>			399
<b>Number of residents on date of audit who were admitted to facility prior to August 20, 2012:</b>			NA
<b>Age Range of Population:</b>	<input checked="" type="checkbox"/> Adults 19-67	<input type="checkbox"/> Juveniles No Juveniles	<input type="checkbox"/> Youthful residents 18 and Up- None at the facility
<b>Average length of stay or time under supervision:</b>			1 year
<b>Facility Security Level:</b>			Community
<b>Resident Custody Levels:</b>			Community
<b>Number of staff currently employed by the facility who may have contact with residents:</b>			FTE 87.25 / Security 32
<b>Number of staff hired by the facility during the past 12 months who may have contact with residents:</b>			15
<b>Number of contracts in the past 12 months for services with contractors who may have contact with residents:</b>			4

<b>Physical Plant</b>	
<b>Number of Buildings:</b> 3 buildings: 2 residential, 1 Food Service	<b>Number of Single Cell Housing Units:</b> 3 rooms
<b>Number of Multiple Occupancy Cell Housing Units:</b>	60 rooms ( 2016- 58 and 2 rooms were added to the Chipeta Building)
<b>Number of Open Bay/Dorm Housing Units:</b>	6 rooms
<b>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.):</b>  Cameras are in each dayroom and hallway-119 cameras campus wide, 31 external, 10 with audio capabilities.	
<b>Medical</b>	
<b>Type of Medical Facility:</b>	NA
<b>Forensic sexual assault medical exams are conducted at:</b>	St.Mary's
<b>Other</b>	
<b>Number of volunteers and individual contractors, who may have contact with residents, currently authorized to enter the facility:</b>	10
<b>Number of investigators the agency currently employs to investigate allegations of sexual abuse:</b>	2

# Audit Findings

## Audit Narrative

The Prison Rape Elimination Act (PREA) on-site audit of the Mesa County Criminal Justice Services Division (CJSD) was conducted January 27-30, 2019, by K. E. Arnold from Castle Rock, CO, a United States Department of Justice Certified PREA Auditor for both juvenile and adult facilities. Pre-audit preparation included review of some materials and self reports electronically submitted to the auditor's personal e-mail account on his locked home Internet. In view of some unforeseen circumstances prior to the audit, the usual encrypted thumb drive method of data transmission could not be accomplished and, in the alternative, the afore-mentioned method was utilized.

The documentation review included, but was not limited to, CJSD and relevant Mesa County policies, staff training slides, completed forms regarding both staff and client training, MOUs, organizational chart(s), Client Handbook, brochures, client education materials, photographs of PREA related materials (e.g. posters, etc.), and staff training certifications. This review prompted several questions and informational needs that were addressed with the CJSD PREA Coordinator (CJSD PC). Some of the informational needs were addressed pursuant to this process.

The auditor did receive a letter from a CJSD client during the weeks leading up to the on-site audit. The auditor interviewed the client as both a random client and in follow-up to the letter.

The auditor met with the PC, two managers, and a Supervisor at 8:00AM on Monday, January 28, 2019 in a training room. The auditor provided an overview of the audit process and advised all attendees the same would be facilitated in the least disruptive manner possible. Additionally, the auditor advised attendees of the tentative schedule(s) for the conduct of the audit. Between 8:30AM and 10:45AM, the auditor toured the entire facility with the PC, the afore-mentioned Managers, and the Supervisor.

It is noted the rated capacity of BPRC/WTC is 244 clients and the institutional count on January 28, 2019 was 202 clients.

During the on-site audit, the auditor was provided an office from which to review documents and facilitate confidential interviews with staff and clients. The auditor randomly selected (from a client roster provided by the PC) 21 clients for on-site interviews pursuant to the Resident Interview Questionnaire. Interviewees represented all floors, wings, and facility buildings.

According to the PC, there were no client(s), confined in the facility at the time of the on-site audit, who were Limited English Proficient (LEP), blind/hearing impaired/low vision or hearing, physically impaired, or cognitively impaired. Additionally, no transgender/intersex clients were housed at the facility during the on-site audit. Accordingly, such interviews were not conducted.

It is noted the 21 random client interviewees were generally questioned regarding their knowledge of a variety of PREA protections and their knowledge of reporting mechanisms available to clients for reporting sexual abuse and sexual harassment. Overall, random client interviewees presented reasonable knowledge of PREA policies and practices. This was also noted pursuant to discussions with six random clients during the facility tour. Of note, the auditor inquired as to the basis for their knowledge and

several random clients advised they had received training by CJSD staff, as well as, information gleaned pursuant to previous PREA training within State prisons, and jails.

Twelve random staff selected by the auditor from a staff roster provided by the PC, were interviewed. The Random Sample of Staff Interview Questionnaire was administered to this sample group of interviewees. Interviewees were questioned regarding PREA training and overall knowledge of the agency's zero tolerance policy, reporting mechanisms available to clients and staff, the response protocols when a client alleges abuse, and First Responder duties.

The following specialty staff questionnaires were utilized during this review including:

Agency Head- The Interim Director serves as both the Agency Head and Interim Director.

Director- The Interim Director serves as both the Agency Head and Interim Director.

CJSD PC

Designated Staff Charged with Monitoring Retaliation (1)

Incident Review Team (1)

Human Resources (1)

Investigator (1)

SAFE/SANE Staff- (1)

Intake (1)

Staff Who Perform Screening for Risk of Victimization and Abusiveness (1)

Security and Non-Security Staff Who Have Acted as First Responders (8 Security staff and 4 Non-Security staff)

Non-medical Staff Involved in Cross-Gender Strip or Visual Searches (1)

The Contract Administrator interview was not conducted as CJSD does not employ staff in that capacity.

It is noted CJSD falls under the purview of Mesa County, CO.

The following resident interviews were facilitated in addition to the random resident interviews. The interview sets are noted below:

Disabled (1- mental disabilities)

Residents Who Reported a Sexual Abuse (1)

Transgender/Intersex (1)

Lesbian, Gay, Bisexual (3)

Reported Sexual Abuse During Screening (2)

The auditor reviewed 12 Staff Training records, 13 client files, 12 staff HR files, seven PREA investigative files, and other records reflected throughout the following narrative prior to the audit, during the audit, and subsequent to completion of the same.

On January 28, 2019, the auditor proceeded to the Powell Building (comprised of male client day rooms, staff offices, and programming areas) Control Center wherein he presented proper identification and signed a register. Additionally, he signed a contractor/volunteer/visitor PREA document. The PC was telephonically contacted and she escorted the auditor to the afore-mentioned training room.

During the facility tour, the auditor observed, among other features, the facility configuration, location of cameras, staff supervision of clients, day room layouts (inclusive of shower areas), placement of PREA posters and informational resources, security monitoring, and client programming.

The facility is comprised of two separate housing areas (male clients housed in Powell Building and female clients housed in Chipeta Building) and a separate Food Service area. There are six day room

units (five in Powell Building and one in Chipeta Building. In Powell Building, one Criminal Justice Officer (CJO- security staff member) each is positioned between the two day rooms on the first and second floors. In other words, one CJO is positioned on the first floor and one on the second floor. The auditor observed the CJOs making rounds, actively supervising and monitoring their areas of responsibility. One CJO is also assigned to the third floor of Powell Building. Finally, one CJO is assigned to active supervision of Chipeta Unit wherein 44 female clients were housed during the on-site audit.

Powell Building client room doors (male clients) each have window glazing, as do staff offices in both buildings. As mentioned in the narrative for 115.218, the addition of windows in Chipeta Building staff offices occurred during the instant audit period.

The auditor notes there are 119 cameras located in the three buildings, 31 of which are exterior. The cameras are monitored in the Reception Area and can also be monitored by the Interim Director, Managers, and Supervisors.

Generally, public restrooms/showers pervade throughout the facility. In all cases, there are doors for each bathroom and shower areas/ toilet areas provide shielding, ensuring protection from cross gender viewing of genitalia. Showers were shielded with proper curtains to ensure privacy. The auditor found no deviations in regard to the same.

Pursuant to the auditor's review of several different cameras, as well as camera angles, in the Powell and Chipeta Building Reception areas, he found no concerns with respect to resident privacy. Residents have sufficient protection from potential voyeurism.

Video surveillance is plentiful and strategically located throughout the facility. The auditor's on-site observation of camera positioning and his review of facility schematics confirms cradle to grave coverage throughout the facility. The auditor noted very few potential blind spots and as he noted the same, he advised stakeholders of his findings.

The auditor notes Audit Notices were generously posted throughout the facility. Both residents and staff were aware of the on-site audit.

As mentioned throughout this report, sexual abuse reporting posters and zero tolerance posters are generously displayed throughout the facility. The auditor finds residents have ample opportunity to be aware of sexual safety protocols pursuant to numerous channels.

An On-site Audit Closeout meeting was facilitated on January 30, 2019 with the PC and two Managers in attendance. The Interim Director attended the meeting following a mandatory meeting he had attended. The auditor expressed his gratitude for the hospitality displayed at the facility, as well as, staff's responsiveness during interviews and the expeditious scheduling of interviews.

While a rating is not provided during such Closeouts, the auditor complimented attendees regarding staff's general knowledge of PREA programs and operations. Additionally, he cited the PREA Victimization and Predator Screening process/implementation of the same as a strength.

Subsequent to completion of the on-site audit, the auditor interviewed a supervisor at Hilltop Domestic Violence and Sexual Assault Services at Lattimer House regarding the prevalence of sexual abuse calls received at their location from clients housed at CJSD. Although a relatively new hire, she advised she has not received any calls nor was she aware of any sexual abuse calls originating from CJSD. She has not again called the auditor with any additional information.

## Facility Characteristics

Mesa County Community Corrections provides custody, security, and rehabilitation services to sentenced offenders, ensuring the opportunity for all classifications of clients to maintain employment, pay room and board costs, pay restitution and court fines, provide for family support, and have access to educational and therapeutic resources.

The objectives of the program are to provide an adequate level of community safety, deter criminal activities, modify behavior, and rehabilitate sentenced offenders using a variety of residential and non-residential services.

Cognitive and behavior modification approaches, emphasizing client responsibility, are focused on developing the client's desire for self improvement through the use of various incentives that must be consistently earned by the client.

Diversion offenders are referred to the program from the District Court, in lieu of a prison sentence. Transition offenders are referred to the program from the State Department of Corrections subsequent to completion of some of their prison sentence. Male and female clients are housed in the program which offers an intense level of supervision, treatment referral, and on-site rehabilitation services.

All offenders are assigned to a case manager who assesses and develops the appropriate supervision plans to assist the offender in addressing criminogenic risk factors, employment, treatment, and transitional needs. The goal is to prepare the offender for transition into the community, reducing the risk of future criminal behavior.

Female client placed into the Community Corrections program receive gender specific services to include trauma treatment, life skills, parenting skills, family re-integration, in addition to the basic core services.

The CJSD Mission Statement is as follows:

Mesa County Criminal Justice Services Department (CJSD) promotes safer communities by providing a variety of monitoring, program and treatment services to offenders. We are committed to serving criminal justice agencies, local communities, victims and others impacted by our clients.

Mesa County Criminal Justice Services Department (CJSD) places its highest value on community safety, providing services which emphasize changing offender behavior to reduce recidivism while enhancing their productive contribution to the community. Offenders are held accountable for their actions and behavior, and for paying restitution, treatment costs and the costs of other services.

We maintain the highest ethical standard while emphasizing professional conduct by staff. Mesa County Criminal Justice Services Department (CJSD) is a credible and respected leader in the criminal justice field, demonstrating effective, innovative, dynamic and fiscally responsible management practices.

## Summary of Audit Findings

**Number of Standards Exceeded:** (1) 115.213



The auditor's review of the annual review of the 2016, 2017, and 2018 Staffing Plans reveals substantial compliance with 115. 213(a). As previously stated, the review is very comprehensive. As a matter of fact, the review takes into account the factors reflected in the Prisons and Jails standards.

In view of the above, the auditor finds CJSD exceeds the requirements of 115.213(a). The review is far more in-depth than required.

The auditor finds the annual review of the staffing plan exceeds the requirements of 115.213(c).

**Number of Standards Met:** (38)

**Number of Standards Not Met:** (0)

### Summary of Corrective Action (if any)

Throughout the following paragraphs, limited background information is provided relative to each finding, as well as, all recommended corrective action. The complete history of the finding and other factual data is noted in the narrative for the respective findings. Each finding is labeled by standard provision as follows:

**115.217(a)-** CJSD Policy 1.2010 entitled Hiring and Promotion Practices, page 3, section B(8)(b) partially addresses 115.217(a). This includes anyone who has been civilly or administratively adjudicated to have engaged in sexual abuse. This policy stipulates no applicant will be hired who has a conviction, misdemeanor, or felony, regarding a sexual abuse in any type of institution or in the community. This policy does not address promotions or contractors.

Clearly, absent language regarding the applicability of 115.217(a) to staff promotions and contractor applicants, the auditor finds CJSD non-compliant with 115.217(a).

In view of the above, the auditor imposes a 180-day corrective action period wherein CJSD will demonstrate compliance and institutionalization of the requirements of 115.217(a). CJSD staff will insert, into policy, language addressing selection of contractors and staff promotions as applied to resolution of the three questions articulated in 115.217(a).

In follow-up to other non-compliance findings articulated as follows, the auditor recommends incorporation of the three questions into the application document or, as an alternative, development of a separate form bearing the three questions, as well as, a question regarding sexual harassment as prescribed in 115.217(b). It is also recommended language be incorporated into this document regarding the continuing obligation to report such information [See 115.217(f)] and that provision of material omissions regarding such misconduct, or the provision of materially false information, shall be grounds for termination [See 115.217(g)]. Of course, with respect to the three 115.217(a) questions and the 115.217(b) sexual harassment question, applicants/promotion candidates/existing employees/and contractor applicants will check the "Yes" or "No" box for each question and sign/date the form in a signature/date block. A staff witness will also affix his/her signature/date in the same manner.

If adopted, this form can be used in the following situations:

CJSD Applicants and Employees:

In conjunction with the application process;

At the hiring interview;

During promotion interviews or in conjunction with promotion applications; and

In conjunction with the annual performance review process (during interviews or in conjunction with the employee's provision of information for performance evaluations).

Contractors:

In conjunction with the contractor's submission of their application; and

At the selection interview.

Such corrective action will require that the PC provide training to all relevant stakeholders regarding all policy provision amendments articulated throughout this standard narrative. The PC will provide the auditor with a copy of the amended policy(ies), training plan(s), as well as, training documentation validating understanding by the stakeholder recipients of the training.

The completion date for corrective action is September 13, 2019.

**115.217(b)**- CJSD Policy 1.2010 entitled Hiring and Promotion Practices, page 3, section B(8)(c) addresses 115.217(b). The auditor notes this policy is applicable to employment applicants, staff promotions and contract applicants.

The auditor's review of information from 12 random staff Human Resources (HR) files and contact with the PC reveals the three questions plus the sexual harassment question required pursuant to 115.217(b) are neither asked on the employment application or in any other format. Accordingly, aside from NCIC/CCIC results, there is no method for tracking if any of the three questions are existent and, as the NCIC/CCIC results do not address sexual harassment, there is currently no method of tracking the requirements of 115.217(b).

In terms of NCIC/CCIC results, HR employees review the same and provide notice to the hiring manager as to whether the employee's criminal record background check passes muster in terms of hiring and PREA standards. Given the above, the auditor was authorized only to review whether the criminal record background check results passed muster for hiring as previously described. The auditor was not authorized to review individual NCIC/CCIC documents.

It is noted a polygraph examination is also administered to new employees however, the auditor was provided no evidence nor provided any assurances as to whether the three questions were included in the polygraph process. Furthermore, the auditor was not able to review any polygraph examination results, similar to the process for NCIC/CCIC documents.

The reviewer must bear in mind that Mesa County and CJSD are the sole entities involved in maintenance and retention of these documents. A contractual agreement is not involved in this relationship wherein a third party, for legal reasons, has elected to handle selections in this manner.

In view of the above, there is no substantiating evidence to validate compliance with 115.217(a), minimally, and (b). Accordingly, the auditor finds CJSD non-compliant with 115.217(a) and (b). To address the finding, the auditor is imposing a 180-day corrective action period wherein CJSD will develop and issue policy(ies) commensurate with the provisions of 115.217, develop relevant forms to implement the policy(ies) [recommendations are noted in the narrative for 115.217(a)], and demonstrate institutionalization of the same. The completion date relative to this corrective action is September 13, 2019.

In addition to the corrective action mentioned in the narrative for 115.217(a), further validation of the existence of sexual harassment of clients/detainees/inmates in the applicant's/promotion applicant's/contractor's history and the status of sexual abuse investigations initiated within the prior institutional agency, it may be necessary to inquire of previous institutional employers regarding the same [at least in terms of the status of sexual abuse investigations initiated by the prior institutional agency- 115.217(c)]. The auditor recommends use of the same form to address the existence of sexual harassment of clients/residents/inmates.

**115.217(c)-** As there is no evidence of such inquiries of prior institutional employers pursuant to 115.217(c), the auditor recommends a form be developed or the subject-matter be included in an existing prior employer inquiry form, encompassing all requisite components as discussed above. This document must bear the name of the information provider, as well as, the date of document completion. If staff call the prior institutional employer to facilitate the inquiry, the inquiring staff member's name, title, date of inquiry, and the target employer's name/identifying information must be documented. It is also recommended, in the event a form is mailed to a prior institutional employer, that the date of mailing be noted on the form.

CJSD Policy 1.2010 entitled Hiring and Promotion Practices, page 3, section B(6)(a-c) addresses 115.217(c) (1). The auditor has not been provided any policy citations regarding contact with 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 (c-2).

In view of the above, the auditor finds CJSD non-compliant with 115.217(c). Accordingly, the auditor is imposing a 180-day corrective action period wherein CJSD will demonstrate compliance with 115.217(c). The completion date for this corrective action is September 13, 2019.

To demonstrate compliance, CJSD staff will develop and implement policy incorporating procedures regarding contact with all prior institutional employers to secure information regarding substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse. As previously indicated, the auditor recommends development of a form, inclusive of an additional question, regarding sexual harassment of inmates/residents/clients, etc. while the individual was under their employ.

Once policy is amended, the PC will train all stakeholders regarding the same and the method of information retrieval, inclusive of relevant forms. A copy of the lesson plan, as well as, the amended policy and training documentation validating the stakeholder's understanding of the subject-matter will be provided to the auditor for review and inclusion in the audit file.

The corrective action strategy (in terms of the recommended form) is described in detail above. For sampling and review purposes, the PC will provide the auditor with a roster of staff hired since January 30, 2019 and he will randomly select names from which completed documents/forms will be assessed for compliance. In other words, the PC will provide the completed requisite forms to the auditor for review.

In addition to the above, the auditor's review of information from 12 random staff HR files, as well as, conversation with the PC, reveals such previous institutional employer PREA reference checks are not completed. Accordingly, the auditor finds CJSD non-compliant with 115.217(c). Corrective action is discussed above.

**115.217(d)-** While CJSD Policy 1.4015 entitled CJSD Facility Access, page 5, section D is provided as policy for 115.217(d), the auditor finds the same falls outside the intent of the provision. Specifically, the intent of the provision focuses on pre-emptive action designed to detect and deter problematic concerns with the potential contractor prior to selection.

While the auditor finds the overarching benefit of dis-allowance of facility entry based on the results of a criminal background record check accomplishes the desired end result, the defining clear direction to selecting officials, as compared to the standard, is missing. Specifically, selecting official's awareness of standard provision requirements is therefore not heightened. Accordingly, the auditor finds CJSD non-compliant with 115.217(d).

The auditor is imposing a 180-day corrective action period wherein CJSD will demonstrate full compliance with 115.217(d). The completion date for this corrective action period is September 13, 2019.

To accomplish compliance, the auditor recommends insertion of language in the appropriate HR policy(ies) regarding the conduct of criminal background record checks prior to enlisting the services of contractors who may have contact with clients. Amendment and development/implementation of policy(ies) is a major component of corrective action across 115.217 and accordingly, this amendment will be a quick remedy. The same training requirements, etc., as articulated in the above narratives, apply to this issue.

The final phase of this corrective action will require CJSD staff to provide the auditor with a roster of newly selected contractors during the course of the corrective action period. The auditor will randomly select from the list of new contractors and the PC will provide the auditor with validation of the conduct of criminal background record checks.

**115.217(e)-** The auditor has not been provided any evidence relative to the conduct of five-year criminal record background checks relative to CJSD contractors. Accordingly, the auditor must find CJSD non-compliant with 115.217(e).

In view of the above, the auditor is imposing a 180-day corrective action period wherein CJSD will demonstrate compliance with 115.217(e). The scheduled completion date for the corrective action is September 13, 2019.

To demonstrate compliance, the PC will provide the auditor with a roster of contractor 5-year re-investigation due dates and he will randomly select name(s). The PC will provide evidence validating the conduct of the requisite 5-year re-investigations and review of the same for absence of evidence regarding, minimally, the three issues identified in 115.217(a). The auditor will review and retain the same in the audit file.

**115.217(f)-** The auditor has not been provided any applicable policy relevant to 115.217(f).

Pursuant to contact with the PC, the three questions articulated in 115.217(a) are not asked in conjunction with performance interview discussions or if the employee provides a written self evaluation of performance. Accordingly, the auditor finds CJSD non-compliant with 115.217(f).

The actual finding and corrective action are articulated in the narrative for 115.217(a). In addition to the recommended form development and implementation described in the narrative for 115.217(a), CJSD staff will insert language addressing the same into relevant policy. A copy of the policy, as well as, the training plan and documentation bearing relevant stakeholder's understanding of the subject-matter will be forwarded to the auditor for review and inclusion in the audit file.

The final phase of corrective action requires the PC to provide the auditor with copy(ies) of completed relevant forms validating the employee's assertion he/she has no historical existence of the three issues articulated in 115.217(a). Again, the sampling method will be completed pursuant to the procedure identified in the narrative for 115.217(d) above. Of course, the evidence provided depends upon the method CJSD staff choose to substantiate compliance with the provision.

The HR interviewee asserts all applicants and employees, who have client contact, are not asked verbatim about previous misconduct as articulated in the narrative for 115.217(a) in written applications for hiring or promotion, and in any interviews or written self-evaluations conducted as part of reviews of current employees. Additionally, the interviewee asserts an affirmative duty to disclose any such previous misconduct is not imposed verbatim upon employees.

**115.217(g)-** Chapter 7 of the Mesa County Sheriff's Office Standards, section L addresses 115.217(g). Entering of false or misleading information on the employment application is identified as grounds for disciplinary action. However, policy does not stipulate the same to be grounds for termination.

In view of the above, the auditor finds CJSD non-compliant with 115.217(g). Accordingly, the auditor imposes a 180-day corrective action period in which CJSD staff will attain compliance with 115.217(g). To attain compliance, CJSD staff will add the afore-mentioned language (grounds for termination) into a relevant policy, providing a copy of the same to the auditor. Additionally, the PC will provide training to all relevant stakeholder(s) regarding the policy amendment. The training will be documented in the same fashion as reflected throughout the narrative for 115.217 and subsequently provided to the auditor for review and retention in the audit file. The same sampling procedure will be utilized as referenced in the narrative for 115.217(d).

**115.251(c)-** CJSD Policy 4.020 entitled PREA: Reporting, Intervention, and Monitoring, page 4, section C(2) (b) addresses 115.251(c). This provision stipulates immediate notification of a CJSD Manager and PC whenever a report of sexual assault, contact, or harassment is received.

The auditor has not been provided any policy mandating prompt ("immediate") documentation of verbal reports as described by the Director. Accordingly, the auditor finds CJSD non-compliant with 115.251(c) and he is imposing a 180-day corrective action plan relative to this finding.

To ensure compliance with 115.251(c), CJSD will incorporate procedures into policy specifically addressing a time line for documentation of the verbal report and to whom the same is submitted. Subsequently, the PC will provide training to all staff regarding the subject-matter of the revised policy. A copy of the amended policy, lesson plan, as well as, the Training Agenda bearing the "I understand" caveat will be provided to the auditor for inclusion in the audit file.

The corrective action completion date is September 13, 2019.

**115.252(e)-** The auditor has not been provided any policy addressing filing of grievances by third parties as articulated in 115.252(e). Accordingly, the auditor finds CJSD non-compliant with 115.252(e). The auditor is imposing a 180-day corrective action plan relative to this finding.

To ensure compliance with 115.252(e), CJSD will incorporate procedures into policy specifically addressing the requirements of 115.252(e). Subsequently, the PC will provide training to all staff stakeholders regarding the subject-matter of the revised policy. A copy of the amended policy, lesson plan, as well as, the Training Agenda bearing the "I understand" caveat will be provided to the auditor for inclusion in the audit file. The completion date for this corrective action is September 13, 2019.

**115.252(f)-** The auditor has not been provided any policy addressing filing of grievances as articulated in 115.252(f). Accordingly, the auditor finds CJSD non-compliant with 115.252(f). The auditor is imposing a 180-day corrective action plan relative to this finding.

To ensure compliance with 115.252(f), CJSD will incorporate procedures into policy specifically addressing the requirements of 115.252(f). Subsequently, the PC will provide training to all staff stakeholders regarding the subject-matter of the revised policy. A copy of the amended policy, lesson plan, as well as, the Training Agenda bearing the "I understand" caveat will be provided to the auditor for inclusion in the audit file.

The completion date for this corrective action is September 13, 2019.

**115.253(a)-** While it appears CJSD is somewhat compliant with 115.253(a), in practice, addition of 115.253(a) and (b) language must be included in policy. Additionally, based on the fact Client Handbooks require updating commensurate with standards, the auditor strongly recommends inclusion of relevant 115.253(a) information in the PREA Advisement form and/or Client Handbook. Information (addresses and telephone numbers) of LH/other relevant services and language regarding the limitations of confidentiality when communicating with staff from relevant services (e.g. Mandatory Reporting issues, criminal matters requiring law enforcement reporting and intervention, and self injurious behavior threats) [115.253(b)] must be articulated in some form that is provided to clients as part of their PREA education. Inclusion of this in-

formation in the PREA Advisement form or Client Handbook will likewise address the deficiency. The language addressed above can be included in both policy and the PREA Advisement. Copies of amended policy, Client Handbook, and the PREA Advisement Form will be forwarded to the auditor for review and approval. Likewise, throughout the corrective action period, the PC will provide the auditor an arrival roster reflective of clients who arrived since the date of the Interim Report. The auditor will randomly select names and the PC will provide copies of documents validating compliance with 115.253(a) and (b).

In view of the above, the auditor finds CJSD non-compliant with 115.253(a) and (b). Accordingly, the auditor imposes a 180-day corrective action period in which the above program modifications must be accomplished. The completion date for these corrective actions is September 13, 2019.

**115.253(b)-** The auditor notes 115.253(b) pertains to the limits of confidentiality when speaking to staff from the afore-mentioned on-going resources (e.g. VA) available to clients who report sexual abuse. The standard requires such limitations be articulated to clients prior to giving them access to such services. The auditor has not been provided any policy meeting the intent of the provision.

Eighteen of the 21 random client interviewees assert that what is said to staff from these services remains private. Thirteen interviewees assert conversations could be shared with or listened to in some circumstances. Examples of when conversations could be listened to or shared with someone else are the result of law enforcement use, crisis intervention rationale, Mandatory Reporting, sexual assault at the facility, or self injurious behavior. Notification of the same is accomplished pursuant to review of both the video and packets.

While there appears to be some compliance with the standard provision, the auditor finds CJSD non-compliant with 115.253(b) for the reasons articulated in the narrative for 115.253(a). Accordingly, corrective action is imposed in accordance with the above.

**115.267(c)-** The auditor's review of seven 2017 and 2018 sexual abuse/harassment investigations reveals four investigations were Unfounded. In one case, the incident occurred on July 6, 2017 and the client was notified of the Substantiated finding on July 13, 2017. While the client was released to DYC Parole, on July 30, 2017, retaliation monitoring was initiated between July 13, 2017 and July 30, 2017.

In another case in which the incident occurred on June 4, 2018, retaliation monitoring was not initiated or completed.

In another case, the incident occurred on March 16, 2018 and GJPD completed a criminal investigation on April 26, 2018. Retaliation monitoring was not initiated in this case.

In view of the above, the auditor finds CJSD non-compliant with 115.267(b) as in two of three random applicable cases, retaliation monitoring was not completed and there were no mitigating circumstances. Accordingly, the auditor is imposing a 180-day corrective action wherein CJSD will substantiate compliance with 115.267.

To demonstrate compliance with 115.267, the PC will forward to the auditor copies of any sexual abuse/harassment "Substantiated" or "Unsubstantiated" PREA investigation(s), completed since the closure of the on-site audit, and any accompanying retaliation monitoring documentation for review and assessment of institutionalization. If no incidents of this nature occur prior to the designated corrective action date, the PC will develop a mock scenario(s) involving a sexual abuse/harassment investigation. The PC will forward to the auditor a copy of the mock investigation and accompanying retaliation monitoring documents for review and assessment.

Upon receipt of the above, the auditor will review the same and make a determination regarding institutionalization. The completion date for corrective action is September 13, 2019.

**115.267(d)-** The auditor has not been provided any policy citation(s) regarding periodic status checks. Additionally, he has not been provided any evidence substantiating completion of periodic status checks as part of the retaliation monitoring process.

In view of the above, the auditor finds CJSD non-compliant with 115.267(d). Accordingly, the auditor imposes a 180-day corrective action period in which CJSD will demonstrate compliance with the provision.

To demonstrate compliance, the PC will ensure language regarding periodic status checks and documentation of the same is written into the applicable policy. Subsequent to the policy amendment, the PC will forward the same to the auditor for review. Subsequent to the same, the PC will provide training to all relevant stakeholders regarding the mechanics of the policy amendment.

Given the small scope of stakeholders, this can be accomplished pursuant to a memorandum articulating the change(s)/addition(s) or provision of a highlighted copy of the policy complete with explanation, if necessary. The PC will provide the copy of the lesson plan (as described above) and the Training Agenda form bearing participants' printed name/signature/date and the "I understand." caveat. The auditor will retain the same for the audit record.

The completion date for this corrective action is September 13, 2019.

**115.271(d)-** The auditor has not been provided any policy documentation stipulating whether CJSD conducts compelled interviews only after consulting with prosecutors as to whether the same may be an obstacle for subsequent prosecution. Accordingly, the auditor finds CJSD non-compliant with 115.271(d). The auditor imposes a 180-day corrective action period in which insertion of this provision in policy will be accomplished and the provision will be institutionalized.

To complete corrective action, the PC will provide to the auditor a copy of the amended policy bearing the language of 115.271(d). The PC will also ensure relevant stakeholders are properly trained regarding this provision. Accordingly, the PC will provide to the auditor a copy of the Training Agenda bearing attendee signatures/dates and the "I understand" caveat. A copy of the relevant lesson plan will also be provided.

The completion date for this corrective action is established as September 13, 2019.

**115.273(a)-** The auditor's review of seven random sexual abuse/sexual misconduct and sexual harassment investigations (2017 and 2018) reveals there is no evidence requisite notifications were provided to affected clients as required by 115.273(a) in five of the seven cases. The auditor has been provided no evidence of notification, as documented in either the body of the investigative report or in the client's file.

In view of the above, the auditor finds CJSD non-compliant with 115.273(a). Accordingly, the auditor imposes a 180-day corrective action period in which compliance must be demonstrated.

To accomplish compliance, the PC will provide to the auditor copies of all sexual abuse/sexual misconduct/sexual harassment investigations and accompanying documentation of notifications to clients as stipulated in 115.273(a, b, c, and e). The above documentation commences with any investigations conducted following completion of the on-site audit. Provision of the requisite documents will be provided throughout the corrective action period as referenced below.

As policy is clear regarding standard requirements (the PC is responsible for provision of such notifications) such training is acknowledged for the PC. The PC will, however, provide training to the other investigator (manager) and the Director, providing the auditor with a copy of the lesson plan and relevant training document reflecting the participant understands the subject-matter presented. The auditor will include this documentation in the audit file.

The corrective action completion date is September 13, 2019.

**115.273(b)-** The auditor's review of the investigation (administrative and criminal investigations referenced above) and accompanying documentation reveals no evidence of client notification regarding the finding of the outside investigative agency relative to the investigation. Accordingly, the auditor finds CJSD non-compliant with 115.273(b). Corrective action, as articulated in the narrative for 115.273(a) also applies to 115.273(b).

**115.273(c)-** Pursuant to the PAQ, the Director self reports following a client's allegation a staff member has committed sexual abuse against the client, the facility subsequently informs the client (unless the agency has determined the allegation is unfounded) whenever:

The staff member is no longer posted within the client's unit;

The staff member is no longer employed at the facility;

The agency learns the staff member has been indicted on a charge related to sexual abuse within the facility; and/or

The agency learns the staff member has been convicted on a charge related to sexual abuse within the facility.

The Director further self reports there has been a substantiated or unsubstantiated complaint (e.g. not unfounded) of sexual abuse committed by a staff member against a client in an agency facility in the past 12 months.

In a follow-up conversation with the PC, the auditor was advised the staff member, in question, was not indicted or convicted. The auditor's review of all relevant documentation in this staff-on-client sexual misconduct matter reveals the requisite notification regarding the alleged perpetrator no longer being posted in the client's unit and the staff member no longer being employed at the facility, was not provided to the victim.

This fact pattern also results in a non-compliance finding related to 115.273(c) and imposition of a 180-day corrective action period, ending on or before September 13, 2019. The corrective action plan parallels that articulated in the narrative for 115.273(a), as applicable to the requirements of 115.273(c).

**115.273(e)-** Pursuant to the PAQ, the Director self reports the agency has a policy that all notifications to clients described under this standard are documented. The lack of notifications in accordance with 115.273(e) (documented) are discussed above and corrective actions also apply to 115.273(e).

**115.278(e)-** The auditor has not been provided any policy documentation wherein discipline of a client for sexual contact with staff can only occur based upon a finding that the staff member did not consent to such contact. Accordingly, the auditor finds CJSD non-compliant with 115.278(e). The auditor imposes a 180-day corrective action period in which insertion of this provision into policy will be accomplished and the provision will be institutionalized.

To complete corrective action, the PC will provide to the auditor a copy of the amended policy bearing the language of 115.278(e). The PC will also ensure relevant stakeholders are properly trained regarding this provision and accordingly, the PC will provide to the auditor a copy of the Training Agenda bearing attendee signatures/dates and the "I understand" caveat. A copy of the relevant lesson plan will also be provided.

The completion date for this corrective action is established as September 13, 2019.

**115.278(g)-** The auditor has not been provided any policy documentation stipulating whether all sexual activity between clients is prohibited and therefore, subject to disciplinary action. Disciplinary action may not be imposed unless it is determined the activity was coerced. Accordingly, the auditor finds CJSD non-compliant with 115.278(g). The auditor imposes a 180-day corrective action period in which insertion of this provision into policy will be accomplished and the provision will be institutionalized.

To complete corrective action, the PC will provide to the auditor a copy of the amended policy bearing the language of 115.278(g). The PC will also ensure relevant stakeholders are properly trained regarding this



provision. Accordingly, the PC will provide to the auditor a copy of the Training Agenda bearing attendee signatures/dates and the "I understand" caveat. A copy of the relevant lesson plan will also be provided.

The completion date for this corrective action is established as September 13, 2019.

**115.283(a), (d), (e), (f), (g), and (h)-** The auditor has not been provided any policy documentation addressing the subject-matter of 115.283(a), (d), (e), (f), (g), and (h). Accordingly, the auditor finds CJSD non-compliant with these provisions. The auditor imposes a 180-day corrective action period in which insertion of these provisions into policy will be accomplished and the provisions will be institutionalized.

To complete corrective action, the PC will provide to the auditor a copy of the amended policy(ies) bearing the language of the afore-mentioned provisions. The PC will also ensure relevant stakeholders are properly trained regarding these provisions. Accordingly, the PC will provide to the auditor a copy of the Training Agenda(s) bearing attendee signatures/dates and the "I understand" caveat. A copy of the relevant lesson plan will also be provided.

The completion date for this corrective action is established as September 13, 2019.

**115.286(c) and (d)-** The auditor's review of the three 2018 Sexual Abuse Response Team (SART) reports reveals timely conduct of the SART reviews in two of the three cases. The auditor notes the SART reports are thorough, and detailed however, there is no indication as to whether facility staffing was assessed (during different shifts) in the area wherein the alleged incident occurred and the date on which the SART was conducted. Additionally, the auditor notes the composition of the SART team is not mentioned in the PREA Incident Debriefing Report. The auditor has been provided no additional evidence clarifying the above findings.

In view of the above, the auditor finds CJSD non-compliant with 115.286(c) and (d). Accordingly, the auditor imposes a 180-day corrective action period in which CJSD will demonstrate substantial compliance with 115.286(c) and (d).

To achieve compliance, the auditor recommends amendment of the PREA Incident Debriefing Report to reflect names and titles of SART participants, a caveat stipulating the assessment as to the adequacy of staffing levels in the area wherein the incident occurred (during different shifts), and the date on which the SART was facilitated. Once amended, the PC will forward a copy of the document to the auditor for review and retention in the audit file. Additionally, the PC will train all relevant stakeholders regarding the amended document, providing the auditor with substantiating training evidence reflecting the participant's printed name/signature/and the "I understand" caveat. The auditor will retain the same in the audit file.

The PC will also forward to the auditor copies of any sexual assault/misconduct investigations and accompanying PREA Incident Debriefing Reports for review and assessment for provision closure. Such documentation applies to incidents occurring subsequent to the date of the on-site review until the established corrective action completion date. The corrective action completion date is September 13, 2019.

**115.288(a), (b), and (c)-** In a separate conversation, the PC asserts SART corrective actions and the steps taken to implement the same, as well as, the findings of the annual facility tour and corrective actions taken, are not addressed in the annual reports. Accordingly, the auditor finds CJSD non-compliant with 115.288(a). Additionally, she asserts the Director signs the SART reports however, he does not sign the annual report. Finally, the PC asserts the perpetual reports do not address corrective actions taken year to year, providing an annual assessment of the agency's progress in addressing sexual abuse.

In view of the above, the auditor finds CJSD non-compliant with 115.288(a), (b), and (c) and is imposing a 180-day corrective action period during which CJSD staff will ensure agency compliance with the afore-mentioned provisions. The PC asserts the 2018/2019 annual report has not been completed as of this date.

Accordingly, corrective action will be accomplished through articulation of SART findings/recommendations/ and recommendations implemented in the annual report, comparing the positive impact of the same on the overall sexual safety of clients. This will provide a synopsis of year to year agency progress in addressing client sexual safety. An analysis of demographics related to sexual abuse/misconduct/harassment will likewise capture gains realized. Finally, the PC will add a signature line and date for both the Director and PC, signifying his review and approval of the report.

The completion date for this corrective action is September 13, 2019. The PC will provide a copy of the 2018/2019 annual report to the auditor for review prior to inclusion of the same on the CJSD website.

**September 25, 2019 Update:**

**Specifics regarding completion of corrective action and the status of compliance are addressed throughout the individual standard narratives, as follows. CJSD has now attained compliance with all standards.**

**These standards are not findings however, corrective action must be taken.**

**115.232(a)-** The auditor's review of a blank PREA and Standards of Professional Conduct Form reveals substantial information (CJSD's zero tolerance policy towards sexual abuse/harassment, reporting procedures, and prevention/intervention strategies) is provided to new employees/contractors/volunteers prior to assumption of duties. The document is thorough, with the exception that definitions regarding sexual abuse/harassment (as reflected in CJSD Policy 4.005) are not articulated in the same document.

In view of the above, the auditor recommends definitions be incorporated into this document or staff explain the same in a training setting and document their name/date of training provision on the Acknowledgment of PREA and Standards of Conduct Advisement form which is also signed/dated by the newly hired staff/contractor/volunteer.

Additionally, the auditor notes the latter document does not reflect the new employee/contractor/volunteer's understanding of the information provided. Accordingly, the auditor recommends inclusion of the "I understand" caveat into this document.

It is noted all contractors/volunteers also sign and date a Facility Access Guidelines/Rules Agreement prior to provision of services. This document reflects the zero tolerance policy towards sexual abuse/harassment, reporting options, and non-security first responder procedures, along with a signature page reflecting an "I understand" caveat. This document is also absent definitions regarding sexual abuse/harassment and the auditor likewise recommends action similar to that recommended for the PREA and Standards of Professional Conduct Form.

The auditor finds CJSD compliant with 115.232 based on the provision of written training and the inclusion of the "I understand" caveat into one of the two forms. The intent of the standard has been met however, the afore-mentioned modifications are strongly recommended.

**115.221(a), 115.264(a), and 115.265(a)-** CJSD Policy 4.030 entitled PREA Investigation Requirements, page 2, section A(2)(a-d) addresses 115.264(a). This policy stipulates if the alleged incident occurred within a time frame that allows for the collection of physical evidence, request the abuser not take any actions that may destroy physical evidence as articulated above.

The auditor notes the standard requires staff ensure the alleged abuser not take any actions that could destroy physical evidence. Pursuant to the auditor's review of the report for the last PREA audit, he finds the same requires insertion of the caveat that staff request the abuser not take any actions that may destroy

physical evidence as articulated above, into policy. Accordingly, the auditor has determined there is no finding regarding this policy and training error.

Five of 12 random staff interviewees assert the first step in terms of uniform evidence preservation is separation of the victim and perpetrator and 11 of the 12 interviewees assert securing the crime scene is the second step. One of the 12 interviewees asserts the third step involves requesting the victim not destroy physical evidence. None of the 12 interviewees assert the fourth step involves ensuring the abuser does not destroy physical evidence.

While the auditor finds no deviation from standard in this matter, corrective action, as defined in the narrative for 115.221 must also be implemented to satisfy 115.264. To accomplish institutionalization, CJSD will follow amendment of the afore-mentioned policy and checklist with proper training of all staff regarding the amended policy and standard requirements. Staff will affirm their understanding of the subject-matter presented through signature/date on a document bearing the "I understand" caveat and the PC will provide the auditor with a copy of the same. Additionally, the PC will provide the auditor with a copy of both the amended policy and the training lesson plan. The same will be retained in the audit file.

A copy of a current CJSD staff roster will also be provided to the auditor to enable validation that all staff were trained.

**September 25, 2019 Update:**

**The auditor's review of amended policies as articulated in the narratives for 115.221 and 115.265 reveals substantial compliance with 115.264. The auditor's review of Training Agenda documents dated July 31, 2019 and August 28, 2019 reveals 46 staff were trained regarding this subject-matter. The document reflects staff understand the subject-matter presented during the training and attendees signed for their participation in the same.**

**Accordingly, corrective action has been taken with respect to the above.**

In addition to the above, the auditor recommends the PC prepare a small laminated First Responder Checklist that staff can retain in their badge pouch during their duty tours. This quick reference guide could be accessed for use when necessary.

The completion date for this corrective action is September 13, 2019.

## PREVENTION PLANNING

### **Standard 115.211: Zero tolerance of sexual abuse and sexual harassment; PREA coordinator**

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

#### **115.211 (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

## 115.211 (b)

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

### 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*)

The Director self reports the agency has a written policy mandating zero tolerance toward all forms of sexual abuse and sexual harassment in facilities it operates directly or under contract. The Director further self reports the facility has a written policy outlining how it will implement the agency's approach to preventing, detecting, and responding to sexual abuse and sexual harassment and the written policy includes definitions of prohibited behaviors regarding sexual abuse/harassment. The policy does include sanctions for those found to have participated in prohibited behaviors and the policy includes a description of agency strategies/responses to reduce and prevent sexual abuse/harassment of residents.

CJSD Policy 4.005 entitled PREA- Introduction to PREA, pages 1-7 addresses 115.211(a). Additionally, CJSD Policy 4.035 entitled CJSD Staff and Contractor Training/Discipline, page 3, section C addresses 115.211(a).

Pursuant to the PAQ, the Director self reports the agency employs or designates an upper-level, agency-wide PREA Coordinator who has sufficient time and authority to develop, implement, and oversee agency efforts to comply with the PREA standards in all of its community confinement facilities. The Director reports the CJSD PREA Coordinator (CJSD PC) is in the agency's organizational structure and the auditor verified the same pursuant to review of the CJSD Organizational Chart. The CJSD PC reports to the CJSD Operations Director.

CJSD Policy 4.005 entitled PREA- Introduction to PREA, page 2, section entitled PREA Coordinator addresses 115.211(b).

The CJSD PC asserts she does have sufficient time to manage all of her PREA related responsibilities. She maintains jurisdiction over policy development, coordination, and review and accordingly, she is able to maintain oversight of PREA programs/operations and interface with relevant departments. She chairs Sexual Abuse Review Team (SART) reviews and facilitates client administrative investigations.

As previously mentioned, the PC reports to the Operations Manager. She (PC) coordinates staffing plan development with relevant subject-matter experts. If PREA related issues are identified throughout the course of daily duties, the PC coordinates with appropriate staff for resolution. Anything requiring monetary expenditure is discussed with the Director. She ensures the Director and managers are in the loop related to PREA matters.

In view of the above, the auditor finds CJSD substantially compliant with 115.211.

## Standard 115.212: Contracting with other entities for the confinement of residents

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

#### 115.212 (a)

- If this agency is public and it contracts for the confinement of its residents 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 residents.)  Yes  No  NA

#### 115.212 (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 residents OR the response to 115.212(a)-1 is "NO".)  Yes  No  NA

#### 115.212 (c)

- If the agency has entered into a contract with an entity that fails to comply with the PREA standards, did the agency do so only in emergency circumstances after making all reasonable attempts to find a PREA compliant private agency or other entity to confine residents? (N/A if the agency has not entered into a contract with an entity that fails to comply with the PREA standards.)  Yes  No  NA
- In such a case, does the agency document its unsuccessful attempts to find an entity in compliance with the standards? (N/A if the agency has not entered into a contract with an entity that fails to comply with the PREA standards.)  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*)

Pursuant to the PAQ, the Director self reports the agency does not contract with private agencies for the confinement of CJSD residents. Accordingly, both the Director and auditor find 115.212(a) and (b) not applicable to CJSD.

Pursuant to the PAQ, the Director self reports since August 20, 2012, the agency has not entered into one or more contracts with a private agency or other entity that failed to comply with PREA standards.

CJSD Policy 4.040 entitled Staffing, Monitoring, and Data, pages 1 and 2, section entitled Procedure (B)(1) and (2) addresses 115.212(c). This policy stipulates the steps to be implemented during emergency housing

situations with respect to receiving institution compliance with PREA standards. The requirements of 115.212(c) are clearly addressed in this policy provision.

In view of the above, the auditor finds CJSD substantially compliant with 115.212.

## Standard 115.213: Supervision and monitoring

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

#### 115.213 (a)

- Does the agency develop for each facility a staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring, to protect residents against sexual abuse?  
X  Yes  No
- Does the agency document for each facility a staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring, to protect residents against sexual abuse?  
X  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration the physical layout of each facility in calculating adequate staffing levels and determining the need for video monitoring? X  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration the composition of the resident population in calculating adequate staffing levels and determining the need for video monitoring? X  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? X  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? X  Yes  No

#### 115.213 (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.)  
X  Yes  No  NA

#### 115.213 (c)

- In the past 12 months, has the facility assessed, determined, and documented whether adjustments are needed to the staffing plan established pursuant to paragraph (a) of this section? X  Yes  No
- In the past 12 months, has the facility assessed, determined, and documented whether adjustments are needed to prevailing staffing patterns? X  Yes  No

- In the past 12 months, has the facility 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 assessed, determined, and documented whether adjustments are needed to the resources the facility has available to commit to ensure adequate staffing levels?  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*)

Pursuant to the PAQ, the Director self reports for CJSD, the agency develops and documents a staffing plan that provides for adequate levels of staffing, and where applicable, video monitoring to protect clients against sexual abuse. The Director self reports the average daily number of clients since the last PREA audit is 208 clients and the average daily number of clients on which the staffing plan is predicated is 208 clients.

The auditor's review of the 2016, 2017, and 2018 CJSD Staffing Plans reveals substantial compliance with 115.213(a) and (c). The staffing plans are very definitive in terms of the relevant factors considered and the annual reviews are even more comprehensive.

The Director asserts staffing levels are adequate at CJSD to protect clients against sexual abuse and such staffing levels are considered in the plan. A complete explanation follows. Video monitoring is also considered in the plan and the plan is documented. The plan is retained by all managers, the PC, and in the Reception Area (Control Center).

When assessing adequate staffing levels and the need for video monitoring, the Director asserts several factors are considered. Specifically, the physical layout of the facility is assessed daily pursuant to tours of the facility. Minimally, the managers, PC, and Director tour the facility on an annual basis, specifically assessing the physical plant and targeting potentially vulnerable areas for the perpetuation of sexual abuse. As all principles are active in the SART process, we are keenly aware of "hot spots" identified pursuant to the same. Additionally, we evaluate staff/client issues to assess potential red flags. Any blind spots and physical obstructions or barriers are closely evaluated, assessing impact and corrective action(s). We also evaluate the "camera alert" system (motion sensor) to ensure functionality.

Client demographics are continuously assessed on a daily basis for the purpose of effective management. Client housing assignments are continuously assessed to determine if placements promote the best effective management. Knowledge of clients is essential as we strive to ensure minimal disruption within the client population. Reallocation of existing staff resources may be a by-product of both the SART and staffing plan processes. Increased emphasis on specific areas or saturation in certain areas, increased staffing, etc. may result from these processes. The plan is assessed and revised based on demographics and data.

If required for some reason, additional staff resources can be temporarily accessed from other law enforcement disciplines.

In terms of staffing plan compliance, the same is assessed by the managers pursuant to rounds and audits. Security supervisors audit staffing daily to ensure proper staffing.

When assessing adequate staffing levels and the need for video monitoring, the PC asserts the following:

In regard to physical layout of the facility, blind spots and high risk areas are closely evaluated:

- a. If deemed necessary, additional cameras/mirrors are added. In consideration of client sexual safety in Chipeta Unit (female unit located across the street from Powell Unit), windows were added in staff offices to enhance staff line of sight for supervision purposes and to enhance monitoring of the office areas. Evaluation of obstructions to effective client supervision is a daily practice at CJSD.
  - b. In regard to composition of the client population, consideration is given to gang members/affiliates, mental health issues and increases, and management of male/female clients. All of these issues factor into staffing plan development and execution.
  - c. In regard to the prevalence of substantiated and unsubstantiated incidents of sexual abuse, the PC chairs or sits on every SART. Evaluation of fact patterns, locations of incidents, time of day, motivation(s), and extenuating circumstance(s) are monitored. If it appears to be prudent to add cameras, she addresses the matter with the Director for consideration. If he concurs, she follows through with request for additional funding, if necessary. Contact with County Commissioners or the Division of Criminal Justice (DCJ) may be required.
  - d. In terms of other relevant factors, new federal, state, or county programming or operational mandates may trigger revision of the staffing plan and hence, a request for additional resources.
- Pursuant to the PAQ, the Director self reports each time the staffing plan is not complied with, the facility documents and justifies all deviations from the same. According to the Director's self report in the PAQ, the most common reason for deviation from the staffing plan is low staffing levels.

The auditor's review of the Deviations document confirms the same is adequate in terms of the standard. The date of the deviation from optimal staffing as described in the staffing plan is clearly articulated, as well as, the rationale for the same and corrective action.

Pursuant to review of the staffing plan, the auditor inquired further with the PC to determine what constitutes minimum staffing levels. He was advised the State of Colorado requires minimal staffing of two staff in the facility at all times. The PC provided the auditor with a copy of that provision and he verified the same. OMA-20 reflects the afore-mentioned requirement.

The PC further asserts the staffing plan reflects optimal staffing guidelines, as opposed to, minimal guidelines. With this caveat in mind, as compared to the findings reflected in the Deviation Report, it appears there were no deviations from the staffing plan during the audit period. If necessary, vacancies can be filled with non-security staff or overtime.

According to the Director, the facility documents all instances of non-compliance with the staffing plan and documentation includes explanations for non-compliance.

Pursuant to the PAQ, the Director self reports at least once every year, the facility reviews the staffing plan to see whether adjustments are needed to:

The staffing plan;  
Prevailing staffing patterns;  
The deployment of video monitoring systems and other monitoring technologies; or  
The allocation of facility/agency resources to commit to the staffing plan to ensure compliance with the same.

The auditor's review of the annual review of the 2016, 2017, and 2018 Staffing Plans reveals substantial compliance with 115. 213(a). As previously stated, the review is very comprehensive. As a matter of fact, the review takes into account the factors reflected in the Prisons and Jails standards.



In view of the above, the auditor finds CJSD exceeds the requirements of 115.213(a). The review is far more in-depth than required.

The auditor finds the annual review of the staffing plan exceeds the requirements of 115.213(c).

The PC asserts the staffing plan is reviewed at least once every year. She asserts she initiates review of the staffing plan and is integrally involved in the review.

In view of the above, the auditor finds CJSD exceeds standard compliance levels with respect to 115.213.

## Standard 115.215: Limits to cross-gender viewing and searches

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

#### 115.215 (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?  
X  Yes  No

#### 115.215 (b)

- Does the facility always refrain from conducting cross-gender pat-down searches of female residents, except in exigent circumstances? (N/A if less than 50 residents)  Yes  
X  No  NA
- Does the facility always refrain from restricting female residents' access to regularly available programming or other outside opportunities in order to comply with this provision? (N/A if less than 50 residents) X  Yes  No  NA

#### 115.215 (c)

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

#### 115.215 (d)

- Does the facility implement policies and procedures that enable residents 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? X  Yes  No
- Does the facility require staff of the opposite gender to announce their presence when entering an area where residents are likely to be showering, performing bodily functions, or changing clothing? X  Yes  No

#### 115.215 (e)

- Does the facility always refrain from searching or physically examining transgender or intersex residents for the sole purpose of determining the resident's genital status? X  Yes  No
- If a resident's genital status is unknown, does the facility determine genital status during conversations with the resident, 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? X  Yes  No

### 115.215 (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? X  Yes  No
- Does the facility/agency train security staff in how to conduct searches of transgender and intersex residents in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs? X  Yes  No

### Auditor Overall Compliance Determination

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

Pursuant to the PAQ, the Director self reports cross-gender strip searches or cross-gender visual body cavity searches of the anal or genital opening are not conducted on CJSD clients. The Director further self reports 0 strip or cross-gender visual body cavity searches of clients were conducted at CJSD during the last 12 months.

CJSD Policy 1.4220 entitled Contraband Control, page 2, section entitled Strip Search addresses 115.215(a). This policy stipulates all strip searches must be conducted by two staff of the same sex as the client and pursuant to approval from a CJSD Supervisor or Director.

The non-medical staff involved in cross-gender strip or visual searches of clients asserts such searches could only be accomplished in exigent circumstances. The interviewee asserts an example of exigent circumstances would be receipt of a credible report a client was in possession of dangerous contraband (e.g. shank) on his/her person.

Pursuant to the PAQ, the Director self reports cross-gender pat-down searches of female clients are not conducted at CJSD. The Director further self reports the facility does not restrict female clients' access to regularly available programming or other outside opportunities in order to comply with this provision. In the past 12 months, no female pat-down searches were conducted by male staff.

CJSD Policy 1.4220 entitled Contraband Control, page 2, section entitled Pat Search addresses 115.215(b). This policy stipulates pat searches are normally conducted by staff of the same sex unless exigent circumstances are existent. Exigent circumstances are defined in this policy citation. Page 3, section B, section entitled Pat Down and Strip Searches also addresses 115.215(b).

Eleven of the 12 random staff interviewees advise if female staff are not available to conduct pat-down searches of female clients, the facility does not restrict those clients' access to programs or outside opportunities. A female staff member from another correctional discipline, a manager, or a female staff member would be called in to facilitate the searches. One interviewee asserts cancellation of outside programs/opportunities would be the very last resort.

All of the ten random female client interviewees assert they have not been unable to participate in outside activities or programs because female staff was unavailable to conduct pat-down searches.

As reflected in the narrative for 115.215(a), strip or visual body cavity searches must be completed by two staff of the same gender as the client. Accordingly, there is no basis for documentation of such a search. The Director further self reports facility policy requires that all cross-gender pat down searches of female clients be documented.

CJSD Policy 1.4220 entitled Contraband Control, page 3, section entitled Pat Down and Strip Searches addresses 115.215(c). This policy stipulates all cross gender pat searches are documented in the facility daily log and the client's chronological record.

The PC self reports there were no cross-gender pat down searches of female clients during the last 12 months.

During the facility tour, the auditor found no notations regarding cross-gender pat searches of female clients in the daily log.

Pursuant to the PAQ, the Director self reports the facility has implemented policies and procedures that enable clients to shower, perform bodily functions, and change clothing without non-medical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine room checks (this includes viewing via video camera). The Director further self reports policies and procedures require staff of the opposite gender to announce their presence when entering a client room or bathroom.

CJSD Policy 2.4205 entitled On-site Monitoring and Security Rounds, page 2, section C(8) addresses 115.215(d).

Thirteen of the 21 random client interviewees (male and female) assert opposite gender staff do announce their presence and gender when entering client rooms and bathrooms. Of this group, several stated opposite gender staff have never entered their room or bathroom. Six male clients assert female staff do not announce their gender when entering the room for count while two female clients assert the same. Count is germane to correctional work and Count times are well known to the population. The auditor finds no deliberate abuse of the requisite announcement under these circumstances.

All 21 random client interviewees assert they are able to shower, toilet, and dress in the absence of being naked or in full view of opposite gender staff.

Eleven of the 12 random staff interviewees assert they announce their presence when entering rooms occupying opposite gender clients, and bathrooms. The remaining interviewee asserts he does not enter rooms and bathrooms wherein the occupants are opposite gender clients. All 12 interviewees assert clients are able to dress, shower, and toilet without being viewed by staff of the opposite gender.

During the facility tour, the auditor noted opposite gender staff were careful, ensuring they announced their gender when entering client rooms and bathrooms. Additionally, the auditor neither observed clients being viewed while naked or in various stages of undress by staff of the opposite gender nor was he advised of the same by the 10 clients randomly interviewed during the tour.

Additionally, the auditor reviewed camera angles in both Powell and Chipeta Units and determined observation of genitalia by staff is not possible in either location.

Pursuant to the PAQ, the Director self reports the facility has a policy prohibiting staff from searching or physically examining a transgender or intersex client for the sole purpose of determining the client's genital status. According to the Director, no such searches were facilitated during the last 12 months.

CJSD Policy 1.4220 entitled Contraband Control, page 1, section entitled Policy addresses 115.215(e).

Eleven of the 12 random staff interviewees assert they are aware of the policy prohibiting staff from searching or physically examining a transgender or intersex client for the sole purpose of determining that client's genital status. One of the interviewees asserts he does not recall. The auditor did discuss standard requirements with him/her in relationship to this issue.

Pursuant to the PAQ, the Director self reports 85% of all security staff have received training on conducting cross-gender pat-down searches of transgender and intersex clients in a professional and respectful manner, consistent with security needs.

According to the PC, on an annual basis, a Power Point and a video by the Moss Group are provided to staff. Cross Gender searches and searches in general are taught by Field Training Officers (FTOs) however, the Moss Group video entitled Guidance in Cross-Gender and Transgender Pat Searches is also presented to staff, at least annually.

The PREA Resource Center (PRC), along with its partner, The Moss Group, Inc. has released an instructional video and facilitator's guide regarding the conduct of professional and respectful cross-gender pat searches and pat searches of transgender clients. The Moss Group, Inc. and PRC produced this resource in an effort to support agency compliance with the PREA standards.

The auditor's review of the video, Power Point, and Facilitator's Guide reveals substantial compliance with 115.215(f).

The auditor's review of FTO training agendas reveals new employees do receive the requisite training.

The auditor's review of nine of 12 random staff training files reveals completion of the training addressed in 115.215(f).

All 12 random staff interviewees assert the agency has a policy to train staff to conduct cross-gender pat-down searches and searches of transgender/intersex residents in a professional and respectful manner, consistent with security needs, and they have been trained regarding the same during the last 12-15 months. Many cited a video and Power Point Presentation as methods of training. Some cited demonstration as another method of training.

In view of the above, the auditor finds CJSD substantially compliant with 115.215.

## **Standard 115.216: Residents with disabilities and residents who are limited English proficient**

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

#### **115.216 (a)**

- Does the agency take appropriate steps to ensure that residents 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: Residents who are deaf or hard of hearing? X  Yes  No

- Does the agency take appropriate steps to ensure that residents 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: Residents who are blind or have low vision? X  Yes  No
- Does the agency take appropriate steps to ensure that residents 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: Residents who have intellectual disabilities? X  Yes  No
- Does the agency take appropriate steps to ensure that residents 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: Residents who have psychiatric disabilities? X  Yes  No
- Does the agency take appropriate steps to ensure that residents 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: Residents who have speech disabilities? X  Yes  No
- Does the agency take appropriate steps to ensure that residents 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.) X  Yes  No
- Do such steps include, when necessary, ensuring effective communication with residents who are deaf or hard of hearing? X  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? X  Yes  No
- Does the agency ensure that written materials are provided in formats or through methods that ensure effective communication with residents with disabilities including residents who: Have intellectual disabilities? X  Yes  No
- Does the agency ensure that written materials are provided in formats or through methods that ensure effective communication with residents with disabilities including residents who: Have limited reading skills? X  Yes  No
- Does the agency ensure that written materials are provided in formats or through methods that ensure effective communication with residents with disabilities including residents who: Are blind or have low vision? X  Yes  No

#### 115.216 (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 residents who are limited English proficient? X  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

### 115.216 (c)

- Does the agency always refrain from relying on resident interpreters, resident readers, or other types of resident assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the resident's safety, the performance of first-response duties under §115.264, or the investigation of the resident'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*)

Pursuant to the PAQ, the Director self reports the agency has established procedures to provide disabled clients equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse/harassment.

CJSD Policy 4.010 entitled PREA Client Orientation and Education, pages 1 and 2 addresses 115.216(a).

The auditor's review of an MOU between CJSD and the Spring Institute for Inter-cultural Learning dated May 17, 2016 reveals substantial compliance with both 115.216(a) and (b). Springs Institute can provide clients access to interpreters who can impartially, accurately and effectively communicate via sign language and with limited English proficient individuals in many languages. Additional auxiliary aids can be arranged for by CJSD, if necessary, through Mesa County dispatch and the Mesa County Sheriff's Department. Google translation is also available for written forms, if necessary.

The PC further reports Residential Dual Diagnosis Treatment (RDDT) program staff work with clients presenting mental health and substance abuse issues. Additionally, through the Adult Review Committee, an administrative case review is conducted to follow-up with clients to assess any problems that may be arising. Accordingly, there is continual follow-up with such special populations to ensure program understanding.

The Director has been interviewed as both Director and Agency Head as he fulfills both roles within the organization. He asserts the agency has established procedures to provide clients with disabilities and clients who are Limited English Proficient (LEP), equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse/harassment.

The resident who presents with mental health disability interviewee asserts the facility provides information about sexual abuse/harassment that they are able to understand.

Pursuant to the PAQ, the Director self reports the agency has established procedures to provide clients with limited English proficiency 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.

CJSD Policy 4.010 entitled PREA Client Orientation and Education, page 2, section 2(e) addresses 115.216(b).

The auditor's review of the Client Handbook reveals there are three handbooks and two of the handbooks require updating regarding PREA matters. One handbook provides some information regarding PREA.

According to the PC, none of the handbooks are translated in any language other than English however, the PC reports non-English speakers have rarely been housed at CJSD. If non-English speakers are housed at CJSD, translation via the Spring Institute is available.

The auditor strongly recommends all handbooks be updated with current PREA information to ensure uniformity.

Pursuant to the PAQ, the Director self reports agency policy prohibits use of client interpreters, client readers, or other types of client assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the client's safety, the performance of first-response duties, or investigation of the client's allegations. The Director further self reports the facility documents the limited circumstances in individual cases where client interpreters, readers, or other types of client assistants are used. Finally, in the last 12 months, there were no instances wherein client interpreters, readers, or other types of client assistants have been used and it was not the case that an extended delay in obtaining another interpreter could compromise the client's safety, the performance of first response duties, or investigation of the client's allegations.

CJSD Policy 4.010 entitled PREA Client Orientation and Education, page 2, section 2(a) addresses 115.216(c).

Six of 12 random staff interviewees assert the agency allows the use of client interpreters, client readers, or other types of client assistants to assist disable clients or LEP clients when making an allegation of sexual abuse/harassment. Four interviewees responded in the negative to the above and two are not sure. Three interviewees assert self injurious behavior, a PREA violation, and the loss of evidence are reasons for employment of the strategy previously mentioned. Nine of the 12 interviewees assert to the best of their knowledge, client interpreters/readers/ or other types of assistants have not been used in relation to allegations of sexual abuse/harassment.

The auditor notes there is no evidence of violation of this standard and policy clearly addresses the language of the standard. Accordingly, the auditor finds no basis for an adverse finding relative to 115.216(c).

The auditor is requiring CJSD to retrain staff relative to the subject-matter of 115.216(c). Re-training can be facilitated in a classroom setting, at which, the PC will provide to the auditor a copy of the lesson plan and training certification reflecting staff's understanding of the material presented. Staff participants must sign and date the appropriate documentation, certifying receipt and understanding of the material.

In the alternative, the PC can author an informational memorandum to all staff, clarifying the requirements of 115.216(c). The individual informational memorandum must specify, in understandable terms, the subject-matter of the provision, include a signature line/date and the "I understand" caveat, and include a staff witness signature line. Copies of the signed/executed memorandums will be forwarded to the auditor for retention in the audit file and the original will be included in the employee's HR file.

In view of the above, the auditor finds CJSD substantially compliant with 115.216.

## **Standard 115.217: Hiring and promotion decisions**

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

#### **115.217 (a)**

- Does the agency prohibit the hiring or promotion of anyone who may have contact with residents 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 residents 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 residents 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 residents 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 residents 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 residents who: Has been civilly or administratively adjudicated to have engaged in the activity described in the question immediately above?  Yes  No

#### 115.217 (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 residents?  Yes  No

#### 115.217 (c)

- Before hiring new employees, who may have contact with residents, does the agency: Perform a criminal background records check?  Yes  No
- Before hiring new employees, who may have contact with residents, 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

#### 115.217 (d)

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

#### 115.217 (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 residents or have in place a system for otherwise capturing such information for current employees?  Yes  No

#### 115.217 (f)

- Does the agency ask all applicants and employees who may have contact with residents 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 residents 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

#### 115.217 (g)

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

#### 115.217 (h)

- Unless prohibited by law, 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*)

Pursuant to the PAQ, the Director self reports agency policy prohibits hiring or promoting anyone who may have contact with clients and prohibits enlisting the services of any contractor who may have contact with residents who:

1. Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution;
2. 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; or
3. Has been civilly or administratively adjudicated to have engaged in the activity described in the above paragraph.

CJSD Policy 2.010 entitled Hiring and Promotion Practices, page 3, section B(8)(b) partially addresses 115.217(a). This includes anyone who has been civilly or administratively adjudicated to have engaged in sexual abuse. This policy stipulates no applicant will be hired who has a conviction, misdemeanor, or felony, regarding a sexual abuse in any type of institution or in the community. This policy does not address promotions or contractors.

Clearly, absent language regarding the applicability of 115.217(a) to staff promotions and contractor applicants, the auditor finds CJSD non-compliant with 115.217(a).

In view of the above, the auditor imposes a 180-day corrective action period wherein CJSD will demonstrate compliance and institutionalization of the requirements of 115.217(a). CJSD staff will insert, into policy, language addressing selection of contractors and staff promotions as applied to resolution of the three questions articulated in 115.217(a).

In follow-up to other non-compliance findings articulated as follows, the auditor recommends incorporation of the three questions into the application document or, as an alternative, development of a separate form bearing the three questions, as well as, a question regarding sexual harassment as prescribed in 115.217(b). It is also recommended language be incorporated into this document regarding the continuing obligation to report such information [See 115.217(f)] and that provision of material omissions regarding such misconduct, or the provision of materially false information, shall be grounds for termination [See 115.217(g)]. Of course, with respect to the three 115.217(a) questions and the 115.217(b) sexual harassment question, applicants/promotion candidates/existing employees/and contractor applicants will check the "Yes" or "No" box for each question and sign/date the form in a signature/date block. A staff witness will also affix his/her signature/date in the same manner.

If adopted, this form can be used in the following situations:

CJSD Applicants and Employees:

In conjunction with the application process;

At the hiring interview;

During promotion interviews or in conjunction with promotion applications; and

In conjunction with the annual performance review process (during interviews or in conjunction with the employee's provision of information for performance evaluations).

Contractors:

In conjunction with the contractor's submission of their application; and

At the selection interview.

Such corrective action will require that the PC provide training to all relevant stakeholders regarding all policy provision amendments articulated throughout this standard narrative. The PC will provide the auditor with a copy of the amended policy(ies), training plan(s), as well as, training documentation validating understanding by the stakeholder recipients of the training.

The completion date for corrective action is September 13, 2019.

**September 19, 2019 Update:**

**The auditor's review of amended CJSD Policy 2.010 entitled Hiring and Promotion Practices, page 4, section B(10)(b) reveals substantial compliance with 115.217(a). Requisite verbiage regarding promotions and contractors has been added.**

**September 24, 2019 Update:**

The auditor's review of documentation in five randomly selected staff files reveals in one case, a Prior Institutional Employer Inquiry was mailed to the supervisor at the same. A response has not been received however, the requisite corrective action was initiated to validate CJSD compliance with 115.217(b) and (c). It is noted the individual employee hiring spread sheet reveals the requisite form was mailed to relevant prior institutional employers in all five cases.

The auditor's review of two recent contractor selection files reveals the three questions were asked of the individuals in the Application for Facility Access document. One additional contractor file was reviewed however, the same was completed prior to implementation of the afore-mentioned policies, thereby validating compliance with 115.217(a).

The auditor's review of three case manager promotion documents reveals all three employees completed the annual DCJ Standards and PREA Standards (Duty to Affirm) document, addressing the three 115.217(a) questions, as well as, sexual harassment [115.217(b)].

**In view of the above, the auditor now finds CJSD compliant with 115.217(a) and (b).**

CJSD Policy 2.010 entitled Hiring and Promotion Practices, page 3, section B(8)(c) addresses 115.217(b). The auditor notes this policy is applicable to employment applicants, staff promotions and contract applicants.

The auditor's review of information from 12 random staff Human Resources (HR) files and contact with the PC reveals the three questions plus the sexual harassment question required pursuant to 115.217(b) are neither asked on the employment application or in any other format. Accordingly, aside from NCIC/CCIC results, there is no method for tracking if any of the three questions are existent and, as the NCIC/CCIC results do not address sexual harassment, there is currently no method of tracking the requirements of 115.217(b).

In terms of NCIC/CCIC results, HR employees review the same and provide notice to the hiring manager as to whether the employee's criminal record background check passes muster in terms of hiring and PREA standards. Given the above, the auditor was authorized only to review whether the criminal record background check results passed muster for hiring as previously described. The auditor was not authorized to review individual NCIC/CCIC documents.

It is noted a polygraph examination is also administered to new employees however, the auditor was provided no evidence nor provided any assurances as to whether the three questions were included in the polygraph process. Furthermore, the auditor was not able to review any polygraph examination results, similar to the process for NCIC/CCIC documents.

The reviewer must bear in mind that Mesa County and CJSD are the sole entities involved in maintenance and retention of these documents. A contractual agreement is not involved in this relationship wherein a third party, for legal reasons, has elected to handle selections in this manner.

In view of the above, there is no substantiating evidence to validate compliance with 115.217(a), minimally, and (b). Accordingly, the auditor finds CJSD non-compliant with 115.217(a) and (b). To address the finding, the auditor is imposing a 180-day corrective action period wherein CJSD will develop and issue policy(ies) commensurate with the provisions of 115.217, develop relevant forms to implement the policy(ies) [recommendations are noted in the narrative for 115.217(a)], and demonstrate institutionalization of the same.

The completion date relative to this corrective action is September 13, 2019.

**September 19, 2019 Update:**

**The auditor's review of the CJSD application reveals a broad reference to the three questions articulated in 115.217(a) are present in the same. Additionally, the three questions plus sexual harassment are clearly scripted in the Pre-Employment Polygraph Pre-test Interview document provided to each pre-hire as referenced above. The document is signed by the applicant and the same is retained in the applicant's file.**

**The 115.217(a) questions are also reflected in the CJSD Pre-Employment Integrity Interview Questions. This document is not signed by the applicant but rather, the interviewer signs and dates the same. The summary of the interview is retained in the applicant's file.**

In addition to the corrective action mentioned in the narrative for 115.217(a), further validation of the existence of sexual harassment of clients/detainees/inmates in the applicant's/promotion applicant's/contractor's history and the status of sexual abuse investigations initiated within the prior institutional agency, it may be necessary to inquire of previous institutional employers regarding the same [at least in terms of the status of sexual abuse investigations initiated by the prior institutional agency- 115.217(c)]. The auditor recommends use of the same form to address the existence of sexual harassment of clients/residents/inmates.

As there is no evidence of such inquiries of prior institutional employers pursuant to 115.217(c), the auditor recommends a form be developed or the subject-matter be included in an existing prior employer inquiry form, encompassing all requisite components as discussed above. This document must bear the name of the information provider, as well as, the date of document completion. If staff call the prior institutional employer to facilitate the inquiry, the inquiring staff member's name, title, date of inquiry, and the target employer's name/identifying information must be documented. It is also recommended, in the event a form is mailed to a prior institutional employer, that the date of mailing be noted on the form.

Pursuant to the PAQ, the Director self reports agency policy requires the consideration of 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 clients.

The Human Resources (HR) interviewee asserts the facility considers prior incidents of sexual harassment when determining whether to hire or promote anyone, or to enlist the services of any contractor, who may have contact with clients.

Pursuant to the PAQ, the Director self reports agency policy requires that before it hires any new employees who may have contact with residents, it conducts criminal background record checks, and consistent with federal, state, and local law, makes 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. The PC self reports 28 staff have been hired at CJSD during the last 12 months and all have reportedly received criminal record background checks. Four new hires have reportedly resigned. Accordingly, the reported percentage of criminal background record checks is reportedly 100%.

CJSD Policy 2.010 entitled Hiring and Promotion Practices, page 3, section B(6)(a-c) addresses 115.217(c) (1). The auditor has not been provided any policy citations regarding contact with 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 (c-2).

In view of the above, the auditor finds CJSD non-compliant with 115.217(c). Accordingly, the auditor is imposing a 180-day corrective action period wherein CJSD will demonstrate compliance with 115.217(c). The completion date for this corrective action is September 13, 2019.

To demonstrate compliance, CJSD staff will develop and implement policy incorporating procedures regarding contact with all prior institutional employers to secure information regarding substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse. As previously indicated, the auditor recommends development of a form, inclusive of an additional question, regarding sexual harassment of inmates/residents/clients, etc. while the individual was under their employ.

Once policy is amended, the PC will train all stakeholders regarding the same and the method of information retrieval, inclusive of relevant forms. A copy of the lesson plan, as well as, the amended policy and training documentation validating the stakeholder's understanding of the subject-matter will be provided to the auditor for review and inclusion in the audit file.

The corrective action strategy (in terms of the recommended form) is described in detail above. For sampling and review purposes, the PC will provide the auditor with a roster of staff hired since January 30, 2019 and he will randomly select names from which completed documents/forms will be assessed for compliance. In other words, the PC will provide the completed requisite forms to the auditor for review.

The HR interviewee asserts facility staff perform criminal record background checks or consider pertinent civil or administrative adjudications for all newly hired employees who may have contact with clients and all employees, who may have contact with clients, who are considered for promotions. Preemployment criminal background record checks are conducted by CJSD staff. Such checks are not conducted for in-house or County employees who are promoted to a position at CJSD however, an individual selected from outside both jurisdictions is subject to a preemployment criminal record background check. All contractors are subjected to a pre-selection criminal record background check.

The auditor's limited review, as previously described, of seven applicable random HR files reveals both the NCIC/CCIC and polygraph examinations were completed prior to the hiring date. The auditor's review of information from 12 random staff HR files, as well as, conversation with the PC, reveals such previous institutional employer PREA reference checks are not completed. Accordingly, the auditor finds CJSD non-compliant with 115.217(c). Corrective action is discussed above.

**September 16, 2019 Update:**

**Pursuant to follow-up with the PREA Resource Center, the auditor has learned the procedure employed with respect to the conduct of CCIC/NCIC criminal record background checks is appropriate. Specifically, it is acceptable for County HR staff to stipulate in a document that the prospective employee is acceptable for hiring based on a review of the above documents. This includes consideration of any information surrounding the three questions referenced in 115.217(a).**

**Accordingly, the findings with respect to the CCIC/NCIC findings addressed in 115.217(a), (c), and (d) are dismissed and the auditor finds CJSD compliant with the same during the on-site audit. CJSD staff are not responsible for corrective action with respect to the same.**

**September 16, 2019 Update:**

**The auditor's review of amended CJSD Policy 2.010 entitled Hiring and Promotion Practices, page 3, section B(5)(e) and page 5, section B(13) reveals substantial compliance with 115.217(c). The auditor has reviewed the PREA Questionnaire for Prior Institutional Employers and finds the same to adequately address corrective action articulated in the narratives for 115.217(b) and (c).**

Of note, prior institutional employers (PREA certified facilities) are required to respond to such inquiries in the same manner as CJSD staff must respond to 115.217(h).

Pursuant to the PAQ, the Director self reports agency policy requires that a criminal background record check be completed before enlisting the services of any contractor who may have contact with clients. The PC asserts eight contractors are on board at the present time.

While CJSD Policy 1.4015 entitled CJSD Facility Access, page 5, section D is provided as policy for 115.217(d), the auditor finds the same falls outside the intent of the provision. Specifically, the intent of the provision focuses on pre-emptive action designed to detect and deter problematic concerns with the potential contractor prior to selection.

While the auditor finds the overarching benefit of dis-allowance of facility entry based on the results of a criminal background record check accomplishes the desired end result, the defining clear direction to selecting officials, as compared to the standard, is missing. Specifically, selecting official's awareness of standard provision requirements is therefore not heightened. Accordingly, the auditor finds CJSD non-compliant with 115.217(d).

The auditor is imposing a 180-day corrective action period wherein CJSD will demonstrate full compliance with 115.217(d). The completion date for this corrective action period is September 13, 2019.

To accomplish compliance, the auditor recommends insertion of language in the appropriate HR policy(ies) regarding the conduct of criminal background record checks prior to enlisting the services of contractors who may have contact with clients. Amendment and development/implementation of policy(ies) is a major component of corrective action across 115.217 and accordingly, this amendment will be a quick remedy. The same training requirements, etc., as articulated in the above narratives, apply to this issue.

The final phase of this corrective action will require CJSD staff to provide the auditor with a roster of newly selected contractors during the course of the corrective action period. The auditor will randomly select from the list of new contractors and the PC will provide the auditor with validation of the conduct of criminal background record checks.

#### **September 19, 2019 Update:**

**Upon further consideration and review, the auditor withdraws this finding [115.217(d)] as the end result is met. The auditor is satisfied all affected staff involved in the decision-making process are adequately aware of the requirements of 115.217 and accordingly, existing procedures are sufficient.**

Pursuant to the PAQ, the Director self reports agency policy requires either criminal record background checks are conducted at least every five years for current employees and contractors who may have contact with clients or that a system is in place for otherwise capturing such information for current employees. CJSD Policy 1.2010 entitled Hiring and Promotion Practices, page 4, section B(10) addresses 115.217(e).

The HR interviewee asserts CJSD staff facilitate preemployment criminal record background checks, as well as, 5-year re-investigations for staff who have client contact. The interviewee was not sure about 5-year re-investigations for contractors who have client contact.

The auditor has not been provided any evidence relative to the conduct of five-year criminal record background checks relative to CJSD contractors. Accordingly, the auditor must find CJSD non-compliant with 115.217(e).

In view of the above, the auditor is imposing a 180-day corrective action period wherein CJSD will demonstrate compliance with 115.217(e). The scheduled completion date for the corrective action is September 13, 2019.

To demonstrate compliance, the PC will provide the auditor with a roster of contractor 5-year re-investigation due dates and he will randomly select name(s). The PC will provide evidence validating the conduct of the requisite 5-year re-investigations and review of the same for absence of evidence regarding, minimally, the three issues identified in 115.217(a). The auditor will review and retain the same in the audit file.

#### **September 19, 2019 Update:**

**The auditor's review of CJSD Policy 2.010 entitled Hiring and Promotion Practices, page 4, section B(12) reveals substantial compliance with 115.217(e). Specifically, five-year reinvestigations are facilitated with respect to employees and contractor reinvestigations are conducted on an annual basis.**

The auditor has not been provided any applicable policy relevant to 115.217(f).

Pursuant to contact with the PC, the three questions articulated in 115.217(a) are not asked in conjunction with performance interview discussions or if the employee provides a written self evaluation of performance. Accordingly, the auditor finds CJSD non-compliant with 115.217(f).

The actual finding and corrective action are articulated in the narrative for 115.217(a). In addition to the recommended form development and implementation described in the narrative for 115.217(a), CJSD staff will insert language addressing the same into relevant policy. A copy of the policy, as well as, the training plan and documentation bearing relevant stakeholder's understanding of the subject-matter will be forwarded to the auditor for review and inclusion in the audit file.

The final phase of corrective action requires the PC to provide the auditor with copy(ies) of completed relevant forms validating the employee's assertion he/she has no historical existence of the three issues articulated in 115.217(a). Again, the sampling method will be completed pursuant to the procedure identified in the narrative for 115.217(d) above. Of course, the evidence provided depends upon the method CJSD staff choose to substantiate compliance with the provision.

The HR interviewee asserts all applicants and employees, who have client contact, are not asked verbatim about previous misconduct as articulated in the narrative for 115.217(a) in written applications for hiring or promotion, and in any interviews or written self-evaluations conducted as part of reviews of current employees. Additionally, the interviewee asserts an affirmative duty to disclose any such previous misconduct is not imposed verbatim upon employees.

**September 19, 2019 Update:**

**The auditor notes commentary regarding updates to the CJSD application and interview guide are described in the narrative for 115.217(a). Accordingly, the auditor finds CJSD compliant with the first portion of 115.217(f).**

**In regard to response to the three questions articulated in 115.217(a) and sexual harassment, 115.217(b), the auditor's review of CJSD Policy 1.300 entitled Management Controls, page 3, section G reveals compliance with the remainder of 115.217(f). The amended document is signed and dated on an annual basis, ensuring performance evaluations and promotions are addressed.**

Pursuant to the PAQ, the Director self reports agency policy states material omissions regarding such misconduct, or the provision of materially false information, shall be grounds for termination.

Chapter 7 of the Mesa County Sheriff's Office Standards, section L addresses 115.217(g). Entering of false or misleading information on the employment application is identified as grounds for disciplinary action. However, policy does not stipulate the same to be grounds for termination.

In view of the above, the auditor finds CJSD non-compliant with 115.217(g). Accordingly, the auditor imposes a 180-day corrective action period in which CJSD staff will attain compliance with 115.217(g).

To attain compliance, CJSD staff will add the afore-mentioned language (grounds for termination) into a relevant policy, providing a copy of the same to the auditor. Additionally, the PC will provide training to all relevant stakeholder(s) regarding the policy amendment. The training will be documented in the same fashion as reflected throughout the narrative for 115.217 and subsequently provided to the auditor for review and retention in the audit file. The same sampling procedure will be utilized as referenced in the narrative for 115.217(d).

**September 19, 2019 Update:**

The auditor's review of amended CJSD Policy 2.010 entitled Hiring and Promotion Practices, page 4, section B(10)(d) reveals the requisite verbiage has been added to the same. Additionally, the auditor's review of the Conditional Job Offer, and Statement of Acknowledgment and Consent to Release Information forms clearly reflects the requisite verbiage as articulated in 115.217(g).

The auditor's review of Training Agenda documents dated July 31, 2019 and August 28, 2019 reveals 46 staff were trained regarding this subject-matter. The document reflects staff understand the subject-matter presented during the training and attendees signed for their participation in the same.

CJSD Policy 2.010 entitled Hiring and Promotion Practices, page 4, section B(11) addresses 115.217(h).

The HR interviewee asserts when a former employee applies for work at another institution and subsequent to request from that facility, CJSD staff provide information on substantiated allegations of sexual abuse/harassment involving the former employee, unless prohibited by law.

In view of the above, the auditor finds CJSD non-compliant with 115.217.

## Standard 115.218: Upgrades to facilities and technologies

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

#### 115.218 (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 residents 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

#### 115.218 (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 residents 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*)

Pursuant to the PAQ, the Director self reports the facility has acquired a new facility or made a substantial expansion or modification to existing facilities since the last PREA audit.



The Agency Head/Director asserts when designing, acquiring, or planning substantial modifications to facilities, CJSD does consider the effects of such changes on its ability to protect residents from sexual abuse. As an example, the Chipeta Unit modification included the placement of windows in staff offices and re-positioning of a client bathroom. As previously referenced, the addition of windows in staff offices enhanced line of sight for supervision purposes.

During the facility tour, the auditor noted the Chipeta Unit changes, finding the same to be prudent and well analyzed. The bathroom re-positioning appears to provide more space but also, better traffic flow and ability to monitor.

According to the PC, while PREA standards and issues were considered during the planning phase of facility modification(s), there is no documentary evidence substantiating the same. The Agency Head/Director confirmed the same.

The auditor recommends the PC develop a form to capture future additions/expansions and the thought processes associated with client sexual safety enhancements.

Pursuant to the PAQ, the Director self reports the facility has installed or updated monitoring technology since the last PREA audit.

The Agency Head/Director asserts pursuant to the addition of cameras, additional blind spots have been eliminated. The camera system is web-based, complete with a camera alert system.

During the facility tour, the auditor noted creative video surveillance to address cumbersome design features. Specifically, three ceiling mounted cameras positioned on a mini-tripod provide for monitoring in three different directions. Several such camera setups were observed in rectangular designed hallways in the older section of Powell Unit.

According to the PC, while PREA standards and issues were considered during the planning phase of video surveillance upgrades, there is no documentary evidence substantiating the same. The Agency Head/Director confirmed the same.

The auditor recommends the PC develop a form to capture camera upgrades/enhancements and the thought processes associated with client sexual safety.

In view of the above, the auditor finds CJSD substantially compliant with 115.218.

## RESPONSIVE PLANNING

### Standard 115.221: Evidence protocol and forensic medical examinations

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

#### 115.221 (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

#### 115.221 (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.) X  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.) X  Yes  No  NA

#### 115.221 (c)

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

#### 115.221 (d)

- Does the agency attempt to make available to the victim a victim advocate from a rape crisis center? X  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? X  Yes  No
- Has the agency documented its efforts to secure services from rape crisis centers? X  Yes  No

#### 115.221 (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? X  Yes  No
- As requested by the victim, does this person provide emotional support, crisis intervention, information, and referrals? X  Yes  No

#### 115.221 (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.) X  Yes  No  NA

### 115.221 (g)

- Auditor is not required to audit this provision.

### 115.221 (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? (Check N/A if agency attempts to make a victim advocate from a rape crisis center available to victims per 115.221(d) above.)  Yes  No X  NA

### Auditor Overall Compliance Determination

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

Pursuant to the PAQ, the Director self reports the facility is responsible for conducting administrative sexual abuse investigations (including client-on-client sexual abuse or staff-on-client sexual misconduct). The Director further self reports the Grand Junction Police Department (GJPD) facilitates criminal investigations. When conducting a sexual abuse investigation, the agency investigators follow a uniform evidence protocol.

CJSD Policy 4.005 entitled PREA- Introduction to PREA, page 7, section C(2) addresses 115.221(a). Additionally, CJSD Policy 4.030 entitled PREA Investigation Requirements, page 2, section A(2)(a-e) addresses 115.221(a).

The auditor notes CJSD Policy 4.030 entitled PREA Investigation Requirements, page 2, section A(2)(a-e) is inaccurate in that "ENSURING the Abuser does not destroy physical evidence" is not identified. It is also noted some of the checklists are inaccurate as they reflect both the victim and abuser will be instructed to refrain from destroying physical evidence. This applies to First Responder duties. Additionally, as reflected below, random staff interviewees presented need for training in regard to this subject-matter.

CJSD Policy 4.030 entitled PREA Investigation Requirements, page 2, section A(2)(a-d) addresses 115.264(a). This policy stipulates if the alleged incident occurred within a time frame that allows for the collection of physical evidence, request the abuser not take any actions that may destroy physical evidence as articulated above.

The auditor notes the standard requires staff ensure the alleged abuser not take any actions that could destroy physical evidence. Pursuant to the auditor's review of the report for the last PREA audit, he finds the same requires insertion of the caveat that staff request the abuser not take any actions that may destroy physical evidence, into policy. Accordingly, the auditor has determined there is no finding regarding this policy and training error.

While the auditor does not find CJSD non-compliant with 115.221(a), the auditor is imposing a 180-day corrective action period wherein the afore-mentioned policy and form mentioned in the narrative for 115.265(a) will be amended, ensuring compliance with 115.221(a), 115.264(a), and 115.265(a).

To accomplish institutionalization, CJSD will follow amendment of the afore-mentioned policy and checklist with proper training of all staff regarding the amended policy and standard requirements. Staff will affirm their understanding of the subject-matter presented through signature/date on a document bearing the "I understand" caveat and the PC will provide the auditor with a copy of the same. Additionally, the PC will provide the auditor with a copy of both the amended policy and the training lesson plan. The same will be retained in the audit file.

A copy of a current CJSD staff roster will also be provided to the auditor to enable validation that all staff were trained.

In addition to the above, the auditor recommends the PC prepare a small laminated First Responder Checklist that staff can retain in their badge pouch during their duty tours. This quick reference guide could be accessed for use when necessary.

The completion date for this corrective action is September 13, 2019.

Five of 12 random staff interviewees assert the first step in terms of uniform evidence preservation is separation of the victim and perpetrator and 11 of the 12 interviewees assert securing the crime scene is the second step. One of the 12 interviewees asserts the third step involves requesting the victim not destroy physical evidence. None of the 12 interviewees assert the fourth step involves ensuring the abuser does not destroy physical evidence.

In regard to facilitation of administrative and criminal investigations of sexual abuse, 11 of the 12 interviewees assert the PC facilitates administrative investigations, four of whom assert a manager also conducts the same. Eleven of the 12 interviewees assert GJPD facilitates criminal investigations.

Pursuant to the PAQ, the Director self reports no youth are housed at CJSD and accordingly, that component of 115.221(b) is not applicable. The Director self reports the protocol was adapted from or otherwise based on the most recent edition of the DOJ'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.

Medical staff at CJSD are not service providers rather, they manage medication dispensation and serve in a consultant role to management regarding medical issues/intermediary between administration and local physicians/hospitals. The auditor verified the same pursuant to review of position descriptions. Accordingly, medical/mental health service provision is accomplished in the community.

As reflected in the narrative for 115.221(c), the auditor has reviewed the procedural MOU addendum between CJSD and Western Slope Center for Children relative to SAFE/SANE examinations. Accordingly, medical evidence collection is deemed to be congruent with 115.221(b).

Pursuant to the PAQ, the Director self reports the facility offers to all clients who experience sexual abuse access to forensic medical examinations. Forensic medical examinations are offered without financial cost to the victim. Where possible, examinations are conducted by SAFE/SANE Nurse Examiners.

When SAFE/SANE Nurses are unavailable, a qualified medical practitioner performs forensic medical examinations. All of the above is clearly articulated in an MOU between CJSD and the Sexual Abuse Nurse Examiner Program under the auspices of the Western Slope Center for Children. According to the Director, no forensic medical examinations were conducted during the past 12 months.

CJSD Policy 4.025 entitled PREA Victim Services, pages 1 and 2, sections A(1) and C addresses 115.221(c). Additionally, CJSD Policy 4.005 entitled PREA- Introduction to PREA, page 7, section C addresses 115.221(c).

The auditor's review of a procedural MOU addendum between CJSD and Western Slope Center for Children reveals substantial compliance with 115.221(c). The Western Slope Center for Children provides oversight for the SANE Nursing Program.

The auditor interviewed a Forensic Interviewer who currently coordinates the SANE Nursing program regarding provision of forensic services at the afore-referenced facility with whom CJSD holds an MOU. Pursuant to contractual agreement, nine SANE Nurses are utilized to provide forensic examinations of sexual abuse victims. While some of these nurses are on-call, others are contacted telephonically by rotation for services. Generally, a SANE Nurse is available for the conduct of an examination in a timely manner. Dependent upon the circumstances of a report of sexual assault received by a jurisdiction, a forensic examination may be conducted within hours or the next day.

Pregnancy tests and tests for sexually transmitted infections are offered as part of the forensic examination.

Pursuant to the PAQ, the Director self reports the facility attempts to make a victim advocate from a rape crisis center available to the victim, either in person or by other means, and these efforts are documented. The Director further self reports the facility provides victim advocate services pursuant to an MOU between CJSD and the Hilltop Domestic Violence and Sexual Assault Services at Lattimer House (LH).

The auditor's review of the MOU and addendum between CJSD and LH reveals substantial compliance with 115.221(d). The same provides operational guidance to secure victim advocacy (VA) services for CJSD sexual abuse victims.

The PC asserts CJSD makes available victim advocacy (VA) services to the client population pursuant to an MOU with LH. The PC has contacted LH and generally inquired regarding VA training. The client who reported a sexual abuse interviewee asserts the facility did not allow him to contact anyone however, he was not specifically precluded from making contact with outside agencies.

Of note, the auditor's review of the fact pattern relative to his case is more representative of sexual harassment, as opposed to, sexual abuse.

Pursuant to the PAQ, the Director self reports if requested by the victim, a victim advocate accompanies and supports the victim through the forensic medical examination process and investigatory interviews and provides emotional support, crisis intervention, information, and referrals.

The MOU and addendum between CJSD and LH is addressed in the narrative for 115.221(d).

The PC asserts if requested by the victim, a VA accompanies and provides emotional support, crisis intervention, information, and referrals during the forensic medical examination process and investigatory interviews.

As reflected throughout this narrative, the PC and a manager facilitate administrative investigations at CJSD. Accordingly, the auditor finds 115.221(f) to be not-applicable to CJSD.

In view of the above, the auditor finds CJSD substantially compliant with 115.221.

## **Standard 115.222: Policies to ensure referrals of allegations for investigations**

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

### 115.222 (a)

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

### 115.222 (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? X  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? X  Yes  No
- Does the agency document all such referrals? X  Yes  No

### 115.222 (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 conducting criminal investigations. See 115.221(a).] X  Yes  No  NA

### 115.222 (d)

- Auditor is not required to audit this provision.

### 115.222 (e)

- Auditor is not required to audit this provision.

## Auditor Overall Compliance Determination

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

Pursuant to the PAQ, the Director self reports the agency ensures an administrative or criminal investigation is completed for all allegations of sexual abuse and sexual harassment (including client-on-client and staff sexual misconduct). In the past 12 months, five allegations of sexual abuse and sexual harassment were

received. All five allegations were investigated administratively and two of the five were also referred for criminal investigation, with no charges filed.

CJSD Policy 4.030 entitled PREA Investigation Requirements, page 1, section entitled Policy and page 5, section D addresses 115.222(a).

The Agency Head/Director asserts the agency ensures an administrative or criminal investigation is completed for all allegations of sexual abuse/harassment.

The Agency Head/Director further asserts the PC generally receives any report of alleged sexual abuse/harassment. The manager trained to facilitate sexual abuse/harassment investigations generally coordinates investigative activities. If the matter rises to criminal implications, the allegation is referred to Grand Junction Police Department (GJPD) for investigation. Cameras are reviewed for evidence, witnesses /victim/perpetrator are interviewed, the crime scene is secured, and evidence preservation are scripted in policy. A formal report is compiled with a conclusion.

Pursuant to the PAQ, the Director self reports the agency has a policy requiring allegations of sexual abuse/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. The Director further self reports agency policy regarding the referral of allegations of sexual abuse/harassment for criminal investigation is published on the agency website. The agency documents all referrals of allegations of sexual abuse/harassment for criminal investigation.

CJSD Policy 4.030 entitled PREA Investigation Requirements, page 5, section D addresses 115.222(b). Additionally, CJSD Policy 4.005 entitled PREA- Introduction to PREA, page 5, section C(2) addresses 115.222(b).

The investigative staff interviewee asserts agency policy requires allegations of sexual abuse/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.

The auditor's review of the CJSD PREA website reveals the PREA investigative policy is located on the same for public consumption.

CJSD Policy 4.030 entitled PREA Investigation Requirements, page 5, section D addresses 115.222(c).

As referenced in the narrative for 115.222(b), the PREA investigative policy, delineating responsibilities for the conduct of criminal sexual abuse/harassment investigations, is available pursuant to the CJSD PREA website.

In view of the above, the auditor finds CJSD substantially compliant with 115.222.

## TRAINING AND EDUCATION

### Standard 115.231: Employee training

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

#### 115.231 (a)

- Does the agency train all employees who may have contact with residents on: Its zero-tolerance policy for sexual abuse and sexual harassment? X  Yes  No

- Does the agency train all employees who may have contact with residents on: How to fulfill their responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures? X  Yes  No
- Does the agency train all employees who may have contact with residents on: Residents' right to be free from sexual abuse and sexual harassment X  Yes  No
- Does the agency train all employees who may have contact with residents on: The right of residents and employees to be free from retaliation for reporting sexual abuse and sexual harassment? X  Yes  No
- Does the agency train all employees who may have contact with residents on: The dynamics of sexual abuse and sexual harassment in confinement? X  Yes  No
- Does the agency train all employees who may have contact with residents on: The common reactions of sexual abuse and sexual harassment victims? X  Yes  No
- Does the agency train all employees who may have contact with residents on: How to detect and respond to signs of threatened and actual sexual abuse? X  Yes  No
- Does the agency train all employees who may have contact with residents on: How to avoid inappropriate relationships with residents? X  Yes  No
- Does the agency train all employees who may have contact with residents on: How to communicate effectively and professionally with residents, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming residents? X  Yes  No
- Does the agency train all employees who may have contact with residents on: How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities? X  Yes  No

#### 115.231 (b)

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

#### 115.231 (c)

- Have all current employees who may have contact with residents received such training? X  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? X  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? X  Yes  No



## 115.231 (d)

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

### Auditor Overall Compliance Determination

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

Pursuant to the PAQ, the Director self reports the agency trains all employees who may have contact with residents on:

- 1) Its zero-tolerance policy for sexual abuse and sexual harassment;
- 2) How to fulfill their responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures;
- 3) Clients' rights to be free from sexual abuse and sexual harassment;
- 4) The right of clients and employees to be free from retaliation for reporting sexual abuse and sexual harassment;
- 5) The dynamics of sexual abuse and sexual harassment in confinement;
- 6) The common reactions of sexual abuse and sexual harassment victims;
- 7) How to detect and respond to signs of threatened and actual sexual abuse;
- 8) How to avoid inappropriate relationships with clients;
- 9) How to communicate effectively and professionally with clients, including lesbian, gay, bisexual, transgender, and intersex, or gender non-conforming clients; and
- 10) How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities.

CJSD Policy 4.035 entitled PREA CJSD Staff and Contractor Training/Discipline, pages 1 and 2, section entitled Procedure A(2)(a-i) addresses 115.231(a).

The auditor's review of the Colorado Community Corrections PREA training slides reflects substantial compliance with 115.231(a).

All 12 random staff interviewees assert they received training regarding the 10 PREA topics articulated above either during Employee Orientation or annual PREA In-service PREA training.

The auditor's review of three completed 2016 and 2017 DCJ Standards and PREA Standards (Duty to Affirm) forms reveals the affected staff have reviewed and understand their duties with respect to DJSD policies, inclusive of PREA information. The documents clearly reflect the "understanding" verbiage, staff name/signature and date.

The auditor's review of 12 random staff training files reveals all received annual training regarding the above topics during the last 12 months. Of note, seven of the affected staff were either hired prior to PREA implementation or during the last PREA audit. Of the five remaining who were hired during the audit period, all completed PREA Orientation prior to contact with clients and have completed annual PREA training where applicable.

Pursuant to the PAQ, the Director self reports training is tailored to the genders of the clients housed at the facility. Both resident genders are housed at CJSD.

CJSD Policy 4.035 entitled PREA CJSD Staff and Contractor Training/Discipline, pages 1 and 2, section entitled Procedure A(1-3) addresses 115.231(b).

Pursuant to follow-up communication with the PC, the auditor has learned all PREA training is tailored to the male and female genders. The Colorado Community Corrections Power Point presentation does provide differentiation between the genders in terms of PREA issues. The auditor confirmed the same pursuant to review of the Power Point presentation.

Of note, six of the afore-mentioned random staff training files reviewed by the auditor pertained to female staff.

Pursuant to the PAQ, the Director self reports 20 staff, who may have contact with residents, were trained or retrained in PREA requirements. This equates to 91% of the staff complement. The PC has advised the auditor that two CJSD staff have not been PREA trained (annual In-Service) as of the date of this report writing and they are scheduled.

If there are any policy updates in regard to PREA matters, staff would be trained on the policy. Employees who may have contact with residents are required to seek out two hours of PREA training on an annual basis.

The PC asserts annually, staff review the CDOC PREA Power Point and complete training regarding client searches.

CJSD Policy 4.035 entitled PREA CJSD Staff and Contractor Training/Discipline, page 2, section entitled Procedure A(3) addresses 115.231(c).

Pursuant to the PAQ, the Director self reports the agency documents that employees, who may have contact with residents, understand the training they received through employee signature or electronic verification.

Of note, the annual DCJ Standards and PREA Standards (Duty to Affirm) form reveals the affected staff have reviewed and understand their duties with respect to DJSD policies, inclusive of PREA information. The documents clearly reflect the "understanding" verbiage, staff name/signature and date. The afore-mentioned random staff training files are complete with these documents as addressed throughout the narrative for 115.31.

While the auditor accepts the above as evidence of compliance with 115.231(d), he recommended to the PC, during the on-site audit, the inclusion of the "understanding" caveat on the Training Agenda form used to commemorate staff's attendance at and completion of requisite PREA training. This document reflects a narrative regarding the training provided and the names of the trainers who certify presentation of the same to attendees, date and times the training was presented, printed names of attendees and their accompanying signatures, and title of attendees. The PC has implemented the recommendation as evidenced by a completed document dated February 5, 2019, referencing Annual PREA and Gender Specific/Transgender/ Intersex Searches. Twelve staff signed for completion and understanding the content of the subject-matter presented.

Going forward, implementation of this documentation will also demonstrate compliance with 115.231(d).

In view of the above, the auditor finds CJSD substantially compliant with 115.231.

## **Standard 115.232: Volunteer and contractor training**

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

#### **115.232 (a)**

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

#### 115.232 (b)

- Have all volunteers and contractors who have contact with residents 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 residents)? X  Yes  No

#### 115.232 (c)

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

#### Auditor Overall Compliance Determination

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

Pursuant to the PAQ, the Director self reports all volunteers and contractors who have contact with clients have been trained on their responsibilities under the agency's policies and procedures regarding sexual abuse/harassment/prevention, detection, and response. The Director further self reports seven contractors provide services at CJSD who have contact with clients, and all have been trained regarding the subject-matter referenced in the preceding sentence. Pursuant to the auditor's review, eight contractors currently provide services at CJSD and two volunteers also provide services. Reportedly, 100% of CJSD contractors have been properly trained.

CJSD Policy 4.035 entitled PREA CJSD Staff and Contractor Training/Discipline, page , section entitled Procedure B(1) addresses 115.232(a).

The auditor's review of a blank PREA and Standards of Professional Conduct Form reveals substantial information (CJSD's zero tolerance policy towards sexual abuse/harassment, reporting procedures, and prevention/intervention strategies) is provided to new employees/contractors/volunteers prior to assumption of duties. The document is thorough, with the exception that definitions regarding sexual abuse/harassment (as reflected in CJSD Policy 4.005) are not articulated in the same document.

In view of the above, the auditor recommends definitions be incorporated into this document or staff explain the same in a training setting and document their name/date of training provision on the Acknowledgment of PREA and Standards of Conduct Advisement form which is also signed/dated by the newly hired staff/contractor/volunteer.

Additionally, the auditor notes the latter document does not reflect the new employee/contractor/volunteer's understanding of the information provided. Accordingly, the auditor recommends inclusion of the "I understand" caveat into this document.

It is noted all contractors/volunteers also sign and date a Facility Access Guidelines/Rules Agreement prior to provision of services. This document reflects the zero tolerance policy towards sexual abuse/harassment, reporting options, and non-security first responder procedures, along with a signature page reflecting an "I understand" caveat. This document is also absent definitions regarding sexual abuse/harassment and the auditor likewise recommends action similar to that recommended for the PREA and Standards of Professional Conduct Form.

The auditor finds CJSD compliant with 115.232 based on the provision of written training and the inclusion of the "I understand" caveat into one of the two forms. The intent of the standard has been met however, the afore-mentioned modifications are strongly recommended.

The auditor's review of five signed/dated Acknowledgment of PREA and Standards of Conduct Advisement forms (as described above) which are also signed/dated by the newly hired employee/contractor/volunteer and a staff witness reveals substantial compliance with 115.232(c). The forms are dated in 2016 and 2018.

Pursuant to the PAQ, the Director self reports the level and type of training provided to volunteers and contractors is based on the services they provide and level of contact they have with residents. The Director further self reports contractors, who have contact with clients, have been notified of the agency's zero-tolerance policy regarding sexual abuse and sexual harassment and informed how to report such incidents.

CJSD Policy 4.035 entitled PREA CJSD Staff and Contractor Training/Discipline, page , section entitled Procedure B(1) addresses 115.232(b).

According to the PC, CJSD staff meet individually with contractors and volunteers and review a Facility Access Guidelines/Rules Agreement and the PREA Professional Standards of Conduct with them. A criminal record background check and a driver's license check are conducted with respect to each.

The auditor notes relevant signature pages confirm the contractor/volunteer's understanding of the information provided in these documents.

Cameras are located in rooms wherein services are provide and staff have access to the rooms. For the most part these are all groups. There may be some individual meetings with clients with the presence of camera(s) in such room(s) and staff have access to the same.

Pursuant to the PAQ, the Director self reports the agency maintains documentation confirming that volunteers/contractors understand the training they have received.

CJSD Policy 4.035 entitled PREA CJSD Staff and Contractor Training/Discipline, page , section entitled Procedure B(1 and 2) addresses 115.232(c).

In view of the above, the auditor finds CJSD substantially compliant with 115.232.

## **Standard 115.233: Resident education**

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

#### **115.233 (a)**

- During intake, do residents receive information explaining: The agency's zero-tolerance policy regarding sexual abuse and sexual harassment? X  Yes  No

- During intake, do residents receive information explaining: How to report incidents or suspicions of sexual abuse or sexual harassment? X  Yes  No
- During intake, do residents receive information explaining: Their rights to be free from sexual abuse and sexual harassment? X  Yes  No
- During intake, do residents receive information explaining: Their rights to be free from retaliation for reporting such incidents? X  Yes  No
- During intake, do residents receive information regarding agency policies and procedures for responding to such incidents? X  Yes  No

#### 115.233 (b)

- Does the agency provide refresher information whenever a resident is transferred to a different facility? X  Yes  No

#### 115.233 (c)

- Does the agency provide resident education in formats accessible to all residents, including those who: Are limited English proficient? X  Yes  No
- Does the agency provide resident education in formats accessible to all residents, including those who: Are deaf? X  Yes  No
- Does the agency provide resident education in formats accessible to all residents, including those who: Are visually impaired? X  Yes  No
- Does the agency provide resident education in formats accessible to all residents, including those who: Are otherwise disabled? X  Yes  No
- Does the agency provide resident education in formats accessible to all residents, including those who: Have limited reading skills? X  Yes  No

#### 115.233 (d)

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

#### 115.233 (e)

- In addition to providing such education, does the agency ensure that key information is continuously and readily available or visible to residents through posters, resident handbooks, or other written formats? X  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*)

Pursuant to the PAQ, the Director self reports clients receive information at time of Intake about the zero-tolerance policy, how to report incidents or suspicions of sexual abuse or harassment, their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents, and regarding agency policies and procedures for responding to such incidents. The Director self reports 413 clients were provided requisite information at Intake during the last 12 months. This equates to 100% of the clients who arrived at CJSD during the last 12 months and were given this information at Intake.

The intake staff interviewee asserts he does provide clients with information about the zero-tolerance policy and how to report incidents or suspicions of sexual abuse/harassment. He accomplishes the same by reading the PREA advisement to clients.

The interviewee was unsure regarding the time frame for provision of information regarding the client's right to be free from sexual abuse/harassment and to be free from retaliation for reporting such incidents, and regarding agency policies and procedures for responding to such incidents.

Twenty of 21 random client interviewees assert they did receive information about the facility's rules against sexual abuse/harassment upon arrival (intake) at the facility. This information was generally conveyed in the PREA Advisement form.

All interviewees assert they received additional PREA information in an Orientation session either at intake or generally within one week of intake, regarding the following:  
Their right not to be sexually abused/harassed;  
How to report sexual abuse/harassment; and  
Their right not to be punished for reporting sexual abuse/harassment.

While all interviewees assert they watched the PREA video, three assert they recently watched the same. The PC advises the same is accurate as a search of client files revealed those individuals had not viewed the video. Accordingly, corrective action was implemented to address the same.

The auditor's review of four packets related to 2018 intakes and two packets related to 2017 intakes reveals various documents timely signed and dated by respective clients and relevant to the requirements of 115.233(a). Of note, certain documents are read and signed at Intake while signature for review of the Colorado Community Corrections video is in conjunction with Orientation. Of note, the auditor's review of the video reveals a substantially comprehensive overview of PREA.

The auditor's review of the PREA Advisement: Facts on Expected Sexual Conduct form, provided to clients at intake, is absent verbiage regarding freedom from retaliation for reporting allegations of sexual abuse/harassment. However, the same is addressed in the Colorado Community Corrections PREA video that is generally provided within one week of intake. The Client Acknowledgments of Colorado Community Corrections PREA DVD forms (relative to the afore-referenced intake packets) reflect timely presentation of the Colorado Community Corrections DVD.

The auditor's review of 13 random client files reveals all represented clients received timely PREA intake materials. However, in three of the 13 random file reviews, provision of Orientation was untimely. One of the randomly reviewed files pertained to an interviewee who asserts he just recently viewed the PREA video. The auditor's findings validated his assertion.

Given the above, the auditor finds CJSD substantially complies with 115.233(a).

Pursuant to the PAQ, the Director self reports the facility provides clients who are transferred from a different community confinement facility with refresher information as referenced above. The Director further self reports 413 residents were transferred to CJSD from a different community confinement facility within the last 12 months and all have received refresher training. The PC self reports 1 resident has been transferred to CJSD from a different community confinement facility. All new commitments at CJSD receive the same PREA training.

All of the 21 random client interviewees assert they were transferred from other correctional facilities, only one from a Re-Entry facility. Primarily, interviewees were transferred from the Mesa County Detention Facility. As mentioned in the narrative for 115.233(a), all received requisite PREA education at CJSD. The auditor's review of the Re-Entry facility interviewee's file reveals he received both intake information and orientation information on the date of intake at CJSD.

Pursuant to the PAQ, the Director self reports client PREA education is available in accessible formats for all clients including those who are limited English proficient, deaf, visually impaired, otherwise disabled, as well as, to clients who have limited reading skills.

CJSD Policy 4.010 entitled PREA Client Orientation and Education, pages 1 and 2 addresses 115.233(c).

Client education formats and accessibility of the same to the client population are addressed in the narrative for 115.216(a) and (b).

Pursuant to the PAQ, the Director self reports the agency maintains documentation of client participation in PREA education sessions. A discussion regarding documentation is addressed in the narrative for 115.233(a).

Pursuant to the PAQ, the Director self reports the agency ensures key information about the agency's PREA policies is continuously and readily available or visible through posters, client handbooks, or other written formats.

Document(s) provided to clients regarding PREA matters are articulated in the narrative for 115.233(a). While only one of three Client Handbooks provides PREA specifics, the afore-described documents (e.g. PREA Advisement) address the majority of PREA requisite information. PREA posters, as alluded to in the narrative for 115.233(e), also provide PREA information.

During the facility tour, the auditor observed generous poster availability in all housing areas.

In view of the above, the auditor finds CJSD substantially compliant with 115.233.

## **Standard 115.234: Specialized training: Investigations**

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

#### **115.234 (a)**

- In addition to the general training provided to all employees pursuant to §115.231, does the agency ensure that, to the extent the agency itself conducts sexual abuse investigations, its investigators have received training in conducting such investigations in confinement settings? [N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.221(a).] X  Yes  No  NA

#### **115.234 (b)**

- Does this specialized training include: Techniques for interviewing sexual abuse victims? [N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.221(a).] X  Yes  No  NA
- Does this specialized training include: Proper use of Miranda and Garrity warnings? [N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.221(a).] X  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 115.221(a).] X  Yes  No  NA
- Does this specialized training include: The criteria and evidence required to substantiate a case for administrative action or prosecution referral? [N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.221(a).] X  Yes  No  NA

#### 115.234 (c)

- Does the agency maintain documentation that agency investigators have completed the required specialized training in conducting sexual abuse investigations? [N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.221(a).] X  Yes  No  NA

#### 115.234 (d)

- Auditor is not required to audit this provision.

#### Auditor Overall Compliance Determination

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

Pursuant to the PAQ, the Director self reports agency policy requires that investigators are trained in conducting sexual abuse investigations in confinement settings. CJSD Policy 4.035 entitled PREA CJSD Staff and Contractor Education/Discipline, page 2, section A(5) addresses 115.234(a).

The investigative staff interviewee asserts she received training specific to conducting sexual abuse investigations in confinement settings. The training encompassed interviewing sexual abuse victims in a confinement setting, evidence collection, Miranda warnings, and other topics. The same was presented in a classroom setting, a full day class. During the training course, some scenario work was facilitated.

The auditor's review of the PC and a designated manager's Certificates of Completion regarding the eight hour Prison Rape & Sexual Assault Investigation Inside Correctional Facilities course reveals substantial compliance with 115.234(a). This training program was sponsored by the Colorado Jail Association and County Sheriffs of Colorado.



CJSD Policy 4.035 entitled PREA CJSD Staff and Contractor Education/Discipline, page 2, section A(5) addresses 115.234(b).

The auditor's review of the training syllabus relative to afore-mentioned training program reveals substantial compliance with 115.234(b). The training outline reflects substantial detail covering minimally, the four requirements of this provision.

The investigative staff interviewee asserts the training referenced in the narrative for 115.234(a) included the following topics:

Techniques for interviewing sexual abuse victims;  
Proper use of Miranda/Garrity warnings;  
Sexual abuse evidence collection in confinement settings; and  
The criteria and evidence required to substantiate a case for administrative or prosecution referral.

Pursuant to the PAQ, the Director self reports the agency maintains documentation showing that investigators have completed the required training. The Director self reports the agency maintains documentation showing two investigators have completed the required training.

CJSD Policy 4.035 entitled PREA CJSD Staff and Contractor Education/Discipline, page 1, section entitled Policy addresses 115.234(c). This policy stipulates the Administrative Officer maintains requisite training completion certifications.

In view of the above, the auditor finds CJSD substantially compliant with 115.234.

## Standard 115.235: Specialized training: Medical and mental health care

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

#### 115.235 (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? X  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? X  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? X  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? X  Yes  No

#### 115.235 (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

### 115.235 (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

### 115.235 (d)

- Do medical and mental health care practitioners employed by the agency also receive training mandated for employees by §115.231?  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 §115.232? [N/A for circumstances in which a particular status (employee or contractor/volunteer) does not apply.]  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*)

Pursuant to the PAQ, the Director self reports the agency has a policy related to the training of medical and mental health practitioners who work regularly in its facilities. According to the Director, two part-time nurses provide very limited services to the client population at CJSD as articulated throughout the following paragraphs. The Director further self reports one of the two part-time nurses who provide such services at the facility received some training.

The auditor's findings regarding training completions are identified pursuant to document reviews and contact with the PC. Additionally, the role of the two part-time nurses is described in the following paragraphs.

CJSD Policy 4.035 entitled PREA CJSD Staff and Contractor Education/Discipline, page 2, section A(4) addresses 115.235(a).

The PC self reports medical practitioners who work at the facility complete the NIC PREA Specialty training regarding their disciplines. There are no CJSD or contract mental health practitioners who work regularly with the client population at CJSD.

The auditor's review of six CJSD Training Documentation Forms reveals one of the nurses reviewed NIC videos regarding six components of the NIC specialty training for provision of health care (sexual assault victims in a confinement setting) however, the auditor has received no evidence she completed the test and successfully completed the course. The videos seem to encompass the four requisite training topics articulated in 115.235(a) however, as previously stated, there is insufficient evidence validating completion of the

course. There is evidence she successfully completed the NIC Behavioral Health Care for Sexual Assault Victims in a Confinement Setting Course.

The other part time nurse started in August, 2018 and has not completed the courses yet. She completed Employee PREA Orientation, but not annual training or the NIC on-line courses.

Auditor's Note: Medical staff at CJSD have very limited, if any, practice privileges and accordingly, their role is much different than what one would see in a prison or jail. Medical staff at CJSD are not service providers rather, they solely manage medication dispensation and serve in a consultant role to management regarding medical issues/intermediary between administration and local physicians/hospitals. The auditor verified the same pursuant to review of position descriptions. Medical/mental health service provision is accomplished in the community.

In view of the above, the auditor finds 115.235 to have limited applicability to CJSD. While not applicable, CJSD is compliant as there are no deviations from either standard or policy. The efforts of CJSD to follow-through on completion of the NIC courses are certainly noteworthy and continuation towards completion of the courses is strongly encouraged.

Given the above and understanding the two part-time nurses play virtually role in the direct provision of medical services to the client population, more particularly to sexual assault victims, the auditor did not facilitate medical staff interviews.

Pursuant to the PAQ, the Director self reports facility medical staff do not conduct forensic examinations. The auditor has confirmed the same as reflected in the narrative for 115.221(c). Accordingly, the auditor finds 115.235(b) not-applicable to CJSD.

Pursuant to the PAQ, the Director asserts documentation is maintained at CJSD showing if and when medical practitioners have completed required training.

CJSD Policy 4.035 entitled PREA CJSD Staff and Contractor Education/Discipline, page 1, section entitled Policy addresses 115.234(c). This policy stipulates the Administrative Officer maintains requisite training completion certifications.

The February 5, 2019 Training Agenda, as referenced in the narrative for 115.231(d) reveals one nurse completed annual PREA training. Additionally, DCJ Standards and PREA Standards (Duty to Affirm) forms reveal understanding of PREA subject-matter.

In view of the above, the auditor finds CJSD substantially compliant with 115.235.

## **SCREENING FOR RISK OF SEXUAL VICTIMIZATION AND ABUSIVENESS**

### **Standard 115.241: Screening for risk of victimization and abusiveness**

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

#### **115.241 (a)**

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

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

#### 115.241 (b)

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

#### 115.241 (c)

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

#### 115.241 (d)

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

#### 115.241 (e)

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

#### 115.241 (f)

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

#### 115.241 (g)

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

#### 115.241 (h)

- Is it the case that residents 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? X  Yes  No

#### 115.241 (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 resident's detriment by staff or other residents? X  Yes  No

#### Auditor Overall Compliance Determination

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

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

Pursuant to the PAQ, the Director self reports the agency has a policy that requires screening (upon admission to a facility or transfer to another facility) for risk of sexual abuse victimization or sexual abusiveness toward other clients.

CJSD Policy 4.015 entitled PREA Assessments, Housing, and Transgender/Gender Reassignment/Intersex Considerations, pages 1 and 2 addresses 115.241(a).

The staff responsible for risk screening interviewee asserts he/she does screen clients upon admission to CJSD or transfer from another facility for risk of sexual abuse victimization or sexual abusiveness toward other residents.

Sixteen of 21 random client interviewees assert when they first came to CJSD, they were asked questions like:

Whether they had been in jail or prison before;

Whether they had ever been sexually abused;

Whether they identify as being lesbian, gay, bisexual; and

Whether they think they might be in danger of sexual abuse at CJSD.

One interviewee asserts he/she doesn't recall whether the above questions were asked while another interviewee asserts he/she doesn't recall being asked if he/she identifies as being lesbian, gay, or bisexual. Three interviewees assert they were not asked the afore-mentioned questions. Thirteen interviewees assert they were asked the requisite questions at Intake while four assert they were asked the questions within one to two days of Intake.

The auditor's random review of 13 random client files reveals the screening was not conducted in the case of the client who could not recall being asked the questions. The file of one of the three clients who assert they were not asked the requisite questions reveals he was asked the same at Intake.

Aside from the afore-mentioned case in which victimization/abusiveness screening was not conducted, the remaining 12 files reflect timely screening in accordance with policy and standard provision (within 72 hours of arrival).

Pursuant to the PAQ, the Director self reports such screening shall take place within 72 hours of arrival at the facility. The PC asserts, during the last year, 399 clients entered the facility (either through intake or transfer) whose length of stay in the facility was 72 hours or more. While she can attest to the fact all clients were screened, she cannot attest to timeliness in completion of initial assessment within 72 hours of arrival, as she has no way of accessing a comprehensive report.

CJSD Policy 4.015 entitled PREA Assessments, Housing, and Transgender/Gender Reassignment/Intersex Considerations, page 2, section A(2)(a) addresses 115.241(b).

The auditor's review of one 2017, three 2018, and two 2019 completed Assessment for Victim Prone/Abusive Characteristics forms (screening tool) reveals timely and comprehensive completion of the initial victimization/abusiveness tool in all but one 2019 case. In the 2019 case, the initial screening was completed two days following the 72-hour threshold.

Random client file review findings are addressed above in the narrative for 115.41(a). In view of the above and the random client file review results, the auditor finds CJSD substantially compliant with 115.241(b).

The staff responsible for risk screening asserts clients are screened for risk of sexual victimization or risk of sexually abusing other clients, within 72 hours of Intake.

Pursuant to the PAQ, the Director self reports risk assessment is conducted using an objective screening instrument.

The auditor's review of the screening instrument reveals the same is objective. Specifics are identified in the narrative for 115.241(d).

CJSD Policy 4.015 entitled PREA Assessments, Housing, and Transgender/Gender Reassignment/Intersex Considerations, page 1, section A addresses 115.241(c).

The auditor's review of the Assessment for Victim Prone/Abusive Characteristics document reflects consideration of each of the nine issues reflected in 115.241(d). Specifically, the document reflects the following issues:

- 1) Whether the client has a mental, physical, or developmental disability;
- 2) The age of the client;
- 3) The physical build of the client;
- 4) Whether the client has previously been incarcerated;
- 5) Whether the client's criminal history is exclusively nonviolent;
- 6) Whether the client has prior convictions for sex offenses against an adult or child;
- 7) Whether the client is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender non-conforming;
- 8) Whether the client has previously experienced sexual victimization; and
- 9) The client's own perception of vulnerability.

CJSD Policy 4.015 entitled PREA Assessments, Housing, and Transgender/Gender Reassignment/Intersex Considerations, pages 1 and 2, section A(1)(a-k) addresses 115.241(d).

The staff responsible for risk screening interviewee asserts the initial risk screening considers the following:

- 1) Client age;
- 2) Physical Build;
- 3) Mental health/physical disabilities;
- 4) First incarceration?;
- 5) Violent vs. non-violent offense?;
- 6) LGBTI?; and
- 7) History of sexual victimization?

In regard to the protocol for conduct of the assessment, the interviewee asserts the assessment is conducted within a day or two of intake. Commencing the assessment process, the interviewee explains the reason for the screening to the client. The interviewee then escorts the client to an interview room behind closed doors. The interviewee specifically asks the scripted questions, documenting client responses and responses to additional probing questions.

CJSD Policy 4.015 entitled PREA Assessments, Housing, and Transgender/Gender Reassignment/Intersex Considerations, pages 1 and 2, section A(1)(a-k) addresses 115.241(e).

The auditor's review of the Assessment for Victim Prone/Abusive Characteristics document reveals substantial compliance with 115.241(e). Specifically, the document reflects the following issues:

- 1) Prior acts of sexual abuse;
- 2) Prior convictions for violent offenses; and
- 3) History of institutional violence or sexual abuse, as known to the agency.

Pursuant to the PAQ, the Director self reports policy requires the facility reassess each client's risk of victimization or abusiveness within a set time period, not to exceed 30 days after the client's arrival at the facility,

based upon any additional, relevant information received by the facility since the intake screening. The PC asserts 399 clients entered the facility (either through intake or transfer) whose length of stay in the facility was 30 days or more. While she can attest to the fact all clients were reassessed, she cannot attest to timeliness in completion of reassessment within 30 days of arrival at CJSD, as she has no way of accessing a comprehensive report.

CJSD Policy 4.015 entitled PREA Assessments, Housing, and Transgender/Gender Reassignment/Intersex Considerations, page 2, section A(2)(b) addresses 115.241(f).

The staff responsible for risk screening interviewee asserts reassessments are scheduled to be completed within 25 days of intake with a maximum date for completion within 30 days of intake.

Five of the 21 random client interviewees assert they were reassessed in terms of sexual victimization and/or abusiveness. Three interviewees assert they were reassessed within 30 days of intake and one interviewee asserts he/she was reassessed within five months of intake. Ten interviewees assert they were not reassessed while four were not sure if they were reassessed.

The auditor's review of 13 random client files pertained to 13 of the random client interviewees. Six files reviewed pertained to the 10 interviewees who assert they were not reassessed. All six files reveal timely completion of reassessments pursuant to standard requirements. In summary, 12 of the random client files reviewed revealed the timely conduct of 30-day reassessments.

Pursuant to the PAQ, the Director self reports the policy requires that a client's risk level be reassessed when warranted due to a referral, request, incident of sexual abuse, or receipt of additional information that bears on the client's risk of sexual victimization or abusiveness.

CJSD Policy 4.015 entitled PREA Assessments, Housing, and Transgender/Gender Reassignment/Intersex Considerations, page 2, section A(2)(e) and (f) addresses 115.241(g).

The staff responsible for risk screening asserts the PC determines reassessments of a client's risk level as needed due to a referral, request, incident of sexual abuse, or receipt of additional information that bears on the client's risk of sexual victimization/abusiveness. The PC generally facilitates the same.

One of the 21 random client interviewees asserts his risk level was reassessed on one occasion when there was a horseplay incident in his room.

The auditor's review of two 2018 completed Assessment for Victim Prone/Abusive Characteristics forms (screening tool) reveals reassessment based on the criteria set forth in 115.241(g). The reassessments relative to 115.241(g) are highlighted in red and completed by the PC.

Pursuant to the PAQ, the Director self reports the policy prohibits disciplining clients for refusing to answer (or for not disclosing complete information related to) questions regarding:

Whether or not the client has a mental, physical, or developmental disability;

Whether or not the client is or is perceived to be lesbian, gay, bisexual, transgender, intersex, or gender nonconforming;

Whether or not the client has previously experienced sexual victimization; and

The client's own perception of vulnerability.

CJSD Policy 4.015 entitled PREA Assessments, Housing, and Transgender/Gender Reassignment/Intersex Considerations, page 3, section A(4) addresses 115.241(h).

The staff responsible for risk screening interviewee asserts clients are not disciplined in any way for refusing to respond to (or for not disclosing complete information) related to the following:



Whether or not the client has a mental, physical, or developmental disability;  
Whether or not the client is or is perceived to be lesbian, gay, bisexual, transgender, intersex, or gender nonconforming;  
Whether or not the client has previously experienced sexual victimization; and  
The client's own perception of vulnerability.  
CJSD Policy 4.015 entitled PREA Assessments, Housing, and Transgender/Gender Reassignment/Intersex Considerations, pages 2 and 3, section A(3) addresses 115.241(i).

The PC asserts the PREA team, PC, managers, and Director have electronic access to PREA assessments as they are deemed necessary for their assignments.

In a separate conversation, the PC advised the auditor the PREA team is generally comprised of Criminal Justice Officers (CJOs) and a manager. The PREA team facilitates initial screenings/reassessments and bed/unit assignments. The team is integrally involved in the PREA process.

The staff responsible for risk screening interviewee asserts she is aware screenings are routed from the screener to the PC to the manager.

In view of the auditor's findings pursuant to random client interviews and random client file reviews, the auditor is confident CJSD is compliant with 115.241. Random client interviews encompass both male and female interviewees and file reviews encompass 2017 (one file) and various dates throughout 2018.

The auditor finds CJSD substantially compliant with 115.241.

## Standard 115.242: Use of screening information

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

#### 115.242 (a)

- Does the agency use information from the risk screening required by § 115.241, with the goal of keeping separate those residents at high risk of being sexually victimized from those at high risk of being sexually abusive, to inform: Housing Assignments? X  Yes  No
- Does the agency use information from the risk screening required by § 115.241, with the goal of keeping separate those residents at high risk of being sexually victimized from those at high risk of being sexually abusive, to inform: Bed assignments? X  Yes  No
- Does the agency use information from the risk screening required by § 115.241, with the goal of keeping separate those residents at high risk of being sexually victimized from those at high risk of being sexually abusive, to inform: Work Assignments? X  Yes  No
- Does the agency use information from the risk screening required by § 115.241, with the goal of keeping separate those residents at high risk of being sexually victimized from those at high risk of being sexually abusive, to inform: Education Assignments? X  Yes  No
- Does the agency use information from the risk screening required by § 115.241, with the goal of keeping separate those residents at high risk of being sexually victimized from those at high risk of being sexually abusive, to inform: Program Assignments? X  Yes  No

#### 115.242 (b)

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

#### 115.242 (c)

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

#### 115.242 (d)

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

#### 115.242 (e)

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

#### 115.242 (f)

- 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 residents, does the agency always refrain from placing: lesbian, gay, and bisexual residents in dedicated facilities, units, or wings solely on the basis of such identification or status? X  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 residents, does the agency always refrain from placing: transgender residents in dedicated facilities, units, or wings solely on the basis of such identification or status? X  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 residents, does the agency always refrain from placing: intersex residents in dedicated facilities, units, or wings solely on the basis of such identification or status? X  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*)

Pursuant to the PAQ, the Director self reports the facility uses information from the risk screening to inform housing, bed, work, education, and program assignments with the goal of keeping separate those clients at high risk of being sexually victimized from those at high risk of being sexually abusive.

According to the PC, prior to a client's arrival for the program, a bed placement team, that meets weekly addressing issues available from referral applications and PSIRs, assesses the client's case. A bed placement assignment is subsequently made. Certain bed placement criteria is followed:

Sex Offenders will not be roomed with known victims; and

Sex Offenders will not be placed with anyone from the Division of Youth Services, regardless of age or assessment outcome.

Once the initial assessment is done or even sooner if information comes to light, room changes may be made, if necessary.

The bed placement team is comprised of a CJSD Manager, a CJSD Shift Supervisor and Criminal Justice Officers (CJOs). The CJOs on this team are also members of the PREA Assessment team.

The PC asserts there are no operational/procedural memorandums specific to this process. Additionally, the PC asserts the PREA Assessment Team facilitates both initial assessments/reassessments and bed placements.

The staff responsible for risk screening interviewee asserts the assessment tool addresses all nine elements required pursuant to 115.241(d). It is a Yes/No questionnaire designed to identify Known Victims (KV) and Potential Victims (PV) pursuant to specific criteria. The same is applicable to Known Aggressors (KAs) and Potential Aggressors (PAs).

Bed assignments are made pursuant to use of Tri-Trak (electronic software system). Tri-Trak identifies PVs, KVs, PAs, and KAs. Victims are not housed with Aggressors. If a client scores as both, he/she is housed with either Unrestricted or with an Aggressor. Division of Youth Corrections (DYC) clients [sentenced pursuant to juvenile statutes but they have aged out (surpassed 18 years of age)] are not housed with Aggressors.

Of note, the interviewee asserts she is part of a three person PREA team. She facilitates initial screenings/ 30 day reassessments, and reviews initial bed assignments on a weekly basis. She reviews PSIRs (Pre-Sentence Investigation Reports) to validate client claims.

Pursuant to the PAQ, the Director self reports the facility makes individualized determinations about how to ensure the safety of each client.

CJSD Policy 4.015 entitled PREA Assessments, Housing, and Transgender/Gender Reassignment/Intersex Considerations, pages 2 and 3, section A(3) addresses 115.242(b).

Pursuant to the PAQ, the Director self reports the facility makes housing and program assignments for transgender or intersex clients in the facility on a case-by-case basis.

CJSD Policy 4.015 entitled PREA Assessments, Housing, and Transgender/Gender Reassignment/Intersex Considerations, pages 3 and 4, section B(1) and (2) addresses 115.242(c).

The PC asserts transgender/intersex clients are housed with PVs, KVs, or Unrestricted clients. They are spread out throughout the facility.

The agency does consider whether the placement will ensure the client's health and safety. Additionally, the agency considers whether the placement would present management or security problems.

At the time of the on-site audit, the PC advised no transgender/intersex clients were housed at CJSD. CJSD Policy 4.015 entitled PREA Assessments, Housing, and Transgender/Gender Reassignment/Intersex Considerations, page 3, section B addresses 115.242(d).

The PC asserts a transgender/intersex client's own views with respect to his/her own safety are given serious consideration in placement/programming assignments. The staff responsible for risk screening interviewee confirms the statement of the PC in this regard.

CJSD Policy 4.015 entitled PREA Assessments, Housing, and Transgender/Gender Reassignment/Intersex Considerations, page 4, section B(3) addresses 115.242(e).

The PC asserts transgender/intersex clients are given the opportunity to shower separately from other clients, should they request the same. Such showers may be facilitated in the staff shower on the 1st floor of Powell Unit for male clients. A staff member may be posted outside the door. In Chipeta Unit, such showers may be facilitated in a single bathroom, equipped with a locking door.

The staff responsible for risk screening interviewee confirms transgender/intersex clients are given the opportunity to shower separately from other residents.

The PC asserts that at the Chipeta building, where female clients are housed, transgender/intersex showers are a non-issue as there are individual bathrooms/showers available. At the Powell Building, where male clients are housed, this has not been an issue, to date. One option is allowance of a requesting transgender/intersex client to use the individual shower that is in the staff locker room. Times and staffing, etc. would have to be evaluated to make it happen.

If the issue came up, the same would be discussed as a team (CJSD Administration) regarding accommodations.

Of note, the auditor did observe these options during the facility tour and concurs with the same.

The PC asserts the facility is not subject to a consent decree, legal settlement, or legal judgment requiring that it establish a dedicated facility, unit, or wing for lesbian, gay, bisexual, transgender/intersex clients.

The bed placement team guards against placement of such clients in dedicated wings or units. The two buildings have been discussed throughout this report narrative. The bed placement team places clients randomly throughout the facility based on the formula mentioned in the narrative for 115.242(a).

None of the LGB interviewees assert they have been placed in a housing area for only gay, lesbian, bisexual, transgender, or intersex clients.

In view of the above, the auditor finds CJSD substantially compliant with 115.242.

## REPORTING

### Standard 115.251: Resident reporting

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

**115.251 (a)**

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

**115.251 (b)**

- Does the agency also provide at least one way for residents to report sexual abuse or sexual harassment to a public or private entity or office that is not part of the agency? X  Yes  No
- Is that private entity or office able to receive and immediately forward resident reports of sexual abuse and sexual harassment to agency officials? X  Yes  No
- Does that private entity or office allow the resident to remain anonymous upon request? X  Yes  No

**115.251 (c)**

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

**115.251 (d)**

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

**Auditor Overall Compliance Determination**

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

Pursuant to the PAQ, the Director self reports the agency has established procedures allowing for multiple internal ways for clients to report privately to agency officials about:

Sexual abuse or sexual harassment;  
Retaliation by other clients or staff for reporting sexual abuse and sexual harassment; and  
Staff neglect or violation of responsibilities that may have contributed to such incidents.

CJSD Policy 4.020 entitled PREA: Reporting, Intervention, and Monitoring, pages 1-3, section A(1-9) addresses 115.251(a).

All 12 random staff interviewees identified at least two internal methods for clients to report sexual abuse/harassment, retaliation for reporting the same, and staff neglect or violation of responsibilities that may have contributed to such incidents. Methods of reporting included verbal report to staff, call the Hotlines, write a letter, submit a grievance, contact law enforcement, and submit email.

All 21 random client interviewees identified at least one internal method for clients to report sexual abuse/harassment, retaliation for reporting the same, and staff neglect or violation of responsibilities that may have contributed to such incidents. Methods of reporting included verbal report to staff, access Hotlines, contact local law enforcement, write a letter, submit a grievance, contact local emergency services, anonymous report, Fifteen interviewees assert they would utilize the Hotlines to report to someone who does not work at the facility.

Pursuant to the PAQ, the Director self reports the agency provides at least one way for clients to report abuse or harassment to a public or private entity or office that is not part of the agency.

CJSD Policy 4.020 entitled PREA: Reporting, Intervention, and Monitoring, page 2, section A(4-7) addresses 115.251(b).

The auditor notes the Colorado Community Corrections DVD provides specific reporting information, as well as, the DOC-Tips Line, information. The DOC-Tips-Line serves as one vehicle for client reporting of sexual abuse/harassment to a public entity that is not part of the agency pursuant to 115.251(b). Additionally, the previously mentioned PREA Advisement: Facts on Expected Sexual Conduct form is issued at intake, providing requisite information. Posters identified below reference reporting options through DOC, District Attorneys Office, etc. Telephone numbers are provided on the forms and posters.

The Reporting policy, page 2, #8 does state that third party is part of the reporting process and time line is "immediately" as referenced in the policy.

The PC asserts the facility provides clients access to the DOC-TIPS, District Attorney (DA), and CJSD Hotlines. Of note, the CJSD Hotline does not constitute a reporting source that is not part of the agency. Relevant information is noted on posters and the PREA Advisement.

The auditor, in conjunction with the PC, contacted the DOC-Tips-Line to test the same during the facility tour. The auditor did not leave a return contact telephone number. An e-mail was received from staff at the DOC-Tips-Line, apprising CJSD staff of the test call.

Seventeen of the 21 random client interviewees assert they are allowed to make a report without having to give their name.

Pursuant to the PAQ, the Director self reports the agency has a policy mandating staff accept reports of sexual abuse and sexual harassment made verbally, in writing, anonymously, and from third parties. The Director further self reports staff are required to document verbal reports. The time frame in which staff are required to document such verbal reports is "immediately".

CJSD Policy 4.020 entitled PREA: Reporting, Intervention, and Monitoring, page 4, section C(2)(b) addresses 115.251(c). This provision stipulates immediate notification of a CJSD Manager and PC whenever a report of sexual assault, contact, or harassment is received.

The auditor has not been provided any policy mandating prompt ("immediate") documentation of verbal reports as described by the Director. Accordingly, the auditor finds CJSD non-compliant with 115.251(c) and he is imposing a 180-day corrective action plan relative to this finding.

To ensure compliance with 115.251(c), CJSD will incorporate procedures into policy specifically addressing a time line for documentation of the verbal report and to whom the same is submitted. Subsequently, the PC will provide training to all staff regarding the subject-matter of the revised policy. A copy of the amended policy, lesson plan, as well as, the Training Agenda bearing the "I understand" caveat will be provided to the auditor for inclusion in the audit file.

The corrective action completion date is September 13, 2019.

**September 16, 2019 Update:**

**The auditor's review of amended CJSD Policy 4.020 entitled PREA Reporting, Intervention, and Monitoring, Page 1, section entitled Policy reveals substantial compliance with the literal reading of the standard provision. The amended policy now reflects the written report must be completed by the reporting staff member prior to departing shift. The standard requires prompt completion of written documentation, as opposed to, a specific time frame. Policy now aligns with the provision.**

**The Director's expectation of "immediate reporting" may be a goal and certainly falls within his purview. Given the policy amendment as previously referenced and upon further consideration, the auditor is satisfied the finding has been corrected.**

**The auditor's review of Training Agenda documents dated July 31, 2019 and August 28, 2019 reveals 46 staff were trained regarding this subject-matter. The document reflects staff understand the subject-matter presented during the training and attendees signed for their participation in the same.**

**The auditor now finds CJSD compliant with 115.251(c).**

Eleven of the 12 random staff interviewees assert when a resident alleges sexual abuse, he/she can do so verbally, in writing, anonymously, and from third parties. All interviewees assert they document such reports in a separate report with very limited distribution and in a secure manner. Seven of the 12 interviewees assert they document such reports immediately and five interviewees assert they document as soon as possible.

All 21 random client interviewees assert they can make reports of sexual abuse/harassment either in person or in writing. Thirteen of the 21 interviewees assert someone else can make a report for them without providing the victim's name.

Pursuant to the PAQ, the Director self reports the agency has established procedures for staff to privately report sexual abuse and sexual harassment of clients. Of note, the telephone number for DOC-TIPS Line is listed in the following policy. Staff are alerted to reporting procedures pursuant to Pre-Service and In-Service training. The afore-mentioned training resource referenced in 115.231(a) provides relevant telephone numbers, etc. for reporting.

CJSD Policy 4.020 entitled PREA: Reporting, Intervention, and Monitoring, page , section B(1) addresses 115.251(d). This provision alludes to staff use of the reporting options reflected at page 2, section A(2-8) addresses 115.251(d).

All 12 random staff interviewees identified at least two methods to privately report sexual abuse/harassment of clients. Methods of reporting include verbal to supervisor/PC/manager (either personally during work hours, via management cell phones during non-regular business hours, or email), contact through the various Hotlines previously discussed in the narrative for 115.251, written report, contact GJPD Dispatch, and contact On-Call Manager.

The auditor notes during the facility tour, he tested the DOC-TIPS Hotline in a housing unit at CJSD and he was provided an email, validating the call and narrative of the message relayed. The email message was

received the next day. The auditor did not leave a telephone number to which COC-TIPS Line staff could respond.

In view of the above, the auditor now finds CJSD compliant with 115.251 based on the above.

## Standard 115.252: Exhaustion of administrative remedies

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

#### 115.252 (a)

- Is the agency exempt from this standard? NOTE: The agency is exempt ONLY if it does not have administrative procedures to address resident grievances regarding sexual abuse. This does not mean the agency is exempt simply because a resident 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

#### 115.252 (b)

- Does the agency permit residents 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 a resident 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

#### 115.252 (c)

- Does the agency ensure that: A resident 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

#### 115.252 (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 residents in preparing any administrative appeal.) (N/A if agency is exempt from this standard.)  Yes  No  NA
- If the agency determines that the 90-day timeframe is insufficient to make an appropriate decision and claims an extension of time [the maximum allowable extension of time to respond is 70 days per 115.252(d)(3)] , does the agency notify the resident 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 resident does not receive a response within the time allotted for reply, including any properly noticed extension, may a resident consider the absence of a response to be a denial at that level? (N/A if agency is exempt from this standard.) X  Yes  No  NA

#### 115.252 (e)

- Are third parties, including fellow residents, staff members, family members, attorneys, and outside advocates, permitted to assist residents in filing requests for administrative remedies relating to allegations of sexual abuse? (N/A if agency is exempt from this standard.) X  Yes  No  NA
- Are those third parties also permitted to file such requests on behalf of residents? (If a third-party files such a request on behalf of a resident, 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.) X  Yes  No  NA
- If the resident declines to have the request processed on his or her behalf, does the agency document the resident's decision? (N/A if agency is exempt from this standard.) X  Yes  No  NA

#### 115.252 (f)

- Has the agency established procedures for the filing of an emergency grievance alleging that a resident is subject to a substantial risk of imminent sexual abuse? (N/A if agency is exempt from this standard.) X  Yes  No  NA
- After receiving an emergency grievance alleging a resident 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.) X  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.) X  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.) X  Yes  No  NA
- Does the initial response and final agency decision document the agency's determination whether the resident is in substantial risk of imminent sexual abuse? (N/A if agency is exempt from this standard.) X  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.) X  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.) X  Yes  No  NA

## 115.252 (g)

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

### Auditor Overall Compliance Determination

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

Pursuant to the PAQ, the Director self reports the agency has an administrative procedure for dealing with client grievances regarding sexual abuse.

CJSD Policy 4.020 entitled PREA: Reporting, Intervention, and Monitoring, pages 2 and 3, section A(9)(i-v) addresses 115.252(a).

Pursuant to the PAQ, the Director self reports agency policy or procedure allows a client to submit a grievance regarding an allegation of sexual abuse at any time, regardless of when the incident is alleged to have occurred. The Director further reports agency policy does not require a client to use an informal grievance process, or other wise attempt to resolve with staff an alleged incident of sexual abuse.

CJSD Policy 4.020 entitled PREA: Reporting, Intervention, and Monitoring, page 2, section A(9)(i-iii) addresses 115.252(b).

As previously indicated in this report, Client Handbooks require updating to ensure relevant PREA information is provided, inclusive of grievance procedures related to PREA. The auditor notes, however, a document is completed by clients at Intake wherein relevant grievance procedures are cited. The PREA Advisement: Facts on Expected Sexual Conduct form is provided to clients at intake. The receiving client signs and dates the Client Acknowledgment of PREA Advisement: Facts on Expected Sexual Conduct form, signifying receipt of the afore-mentioned document. A staff witness also signs and dates the same form. Of note, the latter document reflects an "I understand" caveat.

Pursuant to the PAQ, the Director self reports agency policy and procedure allow a client to submit a grievance alleging sexual abuse without submitting it to the staff member who is the subject of the complaint. Agency policy and procedure requires that a client grievance alleging sexual abuse not be referred to the staff member who is the subject of the complaint.

CJSD Policy 4.020 entitled PREA: Reporting, Intervention, and Monitoring, page 2, section A(9)(iii) addresses 115.252(c).

A discussion regarding the auditor's review of random client files relative to the presence of the PREA Advisement form is articulated in the narrative for 115.233(a).

Pursuant to the PAQ, the Director self reports agency policy and procedure requires that a decision on the merits of any grievance or portion of a grievance alleging sexual abuse be made within 90 days of filing the grievance. In the past 12 months, four grievances have been filed wherein sexual abuse was alleged.

The auditor's review of the grievances reveal the same pertained to an incident of sexual harassment and filed by one client. The auditor finds responses to these sexual harassment grievances are timely.

The Director self reports all four grievances alleging sexual abuse were addressed with a final decision prior to 90 days of filing. The Director also self reports the agency always notifies the resident, in writing, when the agency files for an extension, including notice of the date by which a decision will be made. The PC self reports there has been no incidences of the same.

CJSD Policy 4.020 entitled PREA: Reporting, Intervention, and Monitoring, page 2, section A(9)(iv and v) addresses 115.252(d). While time frames are not referenced in these policy provisions, language dictates the grievances be treated as a reported allegation and addressed immediately. Accordingly, the auditor construes the same to far exceed standard provision requirements.

The client who reported a sexual abuse interviewee (fact pattern is more akin to sexual harassment) asserts he did not file a grievance.

Pursuant to the PAQ, the Director self reports agency policy and procedure permits third parties, including fellow clients, staff members, family members, attorneys, and outside advocates, to assist clients in filing requests for administrative remedies relating to allegations of sexual abuse and to file such requests on behalf of clients. The Director further self reports agency policy and procedure requires that if the client declines to have third-party assistance in filing a grievance alleging sexual abuse, the agency documents the client's decision to decline. The Director self reports 0 grievances alleging sexual abuse have been filed by clients in the past 12 months wherein the client declined third-party assistance, maintaining documentation of the client's decision to decline.

The auditor has not been provided any policy addressing filing of grievances by third parties as articulated in 115.252(e). Accordingly, the auditor finds CJSD non-compliant with 115.252(e). The auditor is imposing a 180-day corrective action plan relative to this finding.

To ensure compliance with 115.252(e), CJSD will incorporate procedures into policy specifically addressing the requirements of 115.252(e). Subsequently, the PC will provide training to all staff stakeholders regarding the subject-matter of the revised policy. A copy of the amended policy, lesson plan, as well as, the Training Agenda bearing the "I understand" caveat will be provided to the auditor for inclusion in the audit file. The completion date for this corrective action is September 13, 2019.

Pursuant to the PAQ, the Director self reports the agency has a policy and established procedures for filing an emergency grievance alleging that a client is subject to a substantial risk of imminent sexual abuse. Agency policy and procedure for emergency grievances alleging substantial risk of imminent sexual abuse requires an initial response within 48 hours. The Director further self reports 0 emergency grievances alleging substantial risk of imminent sexual abuse were filed in the last 12 months. Agency policy and procedure for emergency grievances alleging substantial risk of imminent sexual abuse requires a final agency decision be issued within five days.

The auditor has not been provided any policy addressing filing of grievances as articulated in 115.252(f). Accordingly, the auditor finds CJSD non-compliant with 115.252(f). The auditor is imposing a 180-day corrective action plan relative to this finding.

To ensure compliance with 115.252(f), CJSD will incorporate procedures into policy specifically addressing the requirements of 115.252(f). Subsequently, the PC will provide training to all staff stakeholders regarding the subject-matter of the revised policy. A copy of the amended policy, lesson plan, as well as, the Training Agenda bearing the "I understand" caveat will be provided to the auditor for inclusion in the audit file. The completion date for this corrective action is September 13, 2019.

#### **September 16, 2019 Update:**

**The auditor's review of amended CJSD Policy 5.060 entitled Complaints and Grievances, pages 4 and 5, sections E and F now reveals substantial compliance with 115.252(e) and (f). Requisite verbiage is now included in policy commensurate with the afore-mentioned standard provisions.**

The auditor's review of Training Agenda documents dated July 31, 2019 and August 28, 2019 reveals 46 staff were trained regarding the above subject-matter. The document reflects staff understand the subject-matter presented during the training and attendees signed for their participation in the same.

The auditor now finds CJSD compliant with 115.252(e) and (f).

The auditor notes grievances are addressed in the Client Handbook however, filing grievances pursuant to the PREA standards is not addressed. The auditor strongly recommends inclusion of the subject-matter of 115.252, in entirety, in the three Handbooks as they are revised.

Pursuant to the PAQ, the Director self reports the agency has a written policy that limits its ability to discipline a client for filing a grievance alleging sexual abuse to occasions where the agency demonstrates the client filed the grievance in bad faith. The Director further self reports in the last 12 months, 0 client grievances alleging sexual abuse resulted in disciplinary action by the agency against the client for having filed the grievance in bad faith.

CJSD Policy 4.020 entitled PREA: Reporting, Intervention, and Monitoring, page 5, section D addresses 115.252(g).

In view of the above, the auditor now finds CJSD compliant with 115.252.

## Standard 115.253: Resident access to outside confidential support services

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

#### 115.253 (a)

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

#### 115.253 (b)

- Does the facility inform residents, 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? X  Yes  No

#### 115.253 (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? X  Yes  No

- Does the agency maintain copies of agreements or documentation showing attempts to enter into such agreements? X  Yes  No

### Auditor Overall Compliance Determination

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

Pursuant to the PAQ, the Director self reports the facility provides clients with access to outside victim advocates for emotional support services related to sexual abuse by:

Giving clients mailing addresses and telephone numbers (including toll-free hotline numbers where available) for local, state, or national victim advocacy or rape crisis organizations;  
Enabling reasonable communication between clients and these organizations in as confidential manner as possible.

The auditor notes 115.253(a) pertains to on-going resources (e.g. VA) available to clients who report sexual abuse. The standard provision requires the agency to provide mailing addresses and telephone numbers, including toll-free hotline numbers, where available, of local, State, or national advocacy or rape crisis organizations, and by enabling reasonable communication between clients and staff from these organizations in as confidential manner as possible. The auditor has not been provided any policy meeting the intent of the provision.

The PC advises there is an MOU with LH and the Western Slope Center for Children to provide emotional support and mental health services to affected clients. This MOU covers rape crisis advocacy, hospital accompaniment, support and crisis intervention. Clients are permitted movement from the center and are afforded access to many resources outside the facility. Pay telephones and toll-free telephones are available and clients can make out going toll-free phone calls.

Fourteen of the 21 random client interviewees assert services are available outside of the facility for dealing with sexual abuse, if needed. Twelve of the 21 random client interviewees identified one or more such services that are available. Services identified by interviewees are mental health, VA services, LH, and the Crisis Line.

Eleven of the 21 interviewees assert the facility provides mailing addresses and telephone numbers for these outside services. Information is posted adjacent to client telephones. Additionally, interviewees think the information is available pursuant to the PREA Advisement document and PREA video. Services include victim services, LH, counseling, and therapy. Additionally, 12 interviewees assert the telephone numbers are free to call.

Twelve interviewees assert such calls could be placed anytime.

\*\*\*The auditor notes the PREA Advisement form does not address the requirements of 115.253(a) and (b).

The client who reported sexual abuse interviewee asserts he believes the facility provides mailing addresses and telephone numbers for outside services. The information is provided in the intake packet. He was not aware of the specific services and presumes the numbers are free to call. He asserts contact with these services is triggered in response to a sexual abuse and can be accomplished anytime.

In regard to communication with people involved with these service agencies, the interviewee asserts he presumes the same is confidential. He did not know whether conversations could be told to other people or listened to by others.

During the facility tour, the auditor noted telephone numbers, minimally, are reflected on posters [relative to appropriate services available in conjunction with 115.253(a)]. This is consistent with the statements of the random client interviewees reflected above.

While it appears CJSD is somewhat compliant with 115.253(a), in practice, addition of 115.253(a) and (b) language must be included in policy. Additionally, based on the fact Client Handbooks require updating commensurate with standards, the auditor strongly recommends inclusion of relevant 115.253(a) information in the PREA Advisement form and/or Client Handbook. Information (addresses and telephone numbers) of LH/other relevant services and language regarding the limitations of confidentiality when communicating with staff from relevant services (e.g. Mandatory Reporting issues, criminal matters requiring law enforcement reporting and intervention, and self injurious behavior threats) [115.253(b)] must be articulated in some form that is provided to clients as part of their PREA education. Inclusion of this information in the PREA Advisement form or Client Handbook will likewise address the deficiency. The language addressed above can be included in both policy and the PREA Advisement.

Copies of amended policy, Client Handbook, and the PREA Advisement Form will be forwarded to the auditor for review and approval. Likewise, throughout the corrective action period, the PC will provide the auditor an arrival roster reflective of clients who arrived since the date of the Interim Report. The auditor will randomly select names and the PC will provide copies of documents validating compliance with 115.253(a) and (b).

In view of the above, the auditor finds CJSD non-compliant with 115.253(a) and (b). Accordingly, the auditor imposes a 180-day corrective action period in which the above program modifications must be accomplished. The completion date for these corrective actions is September 13, 2019.

#### **September 16, 2019 Update:**

**The auditor's review of the amended PREA Advisement: Facts on Expected Sexual Conduct reveals requisite information is included in the same, as required pursuant to 115.253(a) and (b). Policy 4.020, as previously referenced, also refers clients to the afore-mentioned form for requisite information regarding follow-up counseling and the limits of confidentiality. Accordingly, the auditor now finds CJSD compliant with 115.253(a) and (b).**

**The auditor's review of a spread sheet (part of the new data system) reveals 11 of the 12 randomly selected PREA Advisements relative to clients received since August 1, 2019 received the amended document bearing requisite information in a timely manner. Accordingly, the auditor finds this final validation evidence of performance with respect to the provisions.**

**In view of the above, the auditor now finds CJSD compliant with 115.253.**

Pursuant to the PAQ, the Director self reports the facility informs clients, prior to giving them access to outside support services, of the extent to which such communications will be monitored. The Director further self reports the facility informs clients, prior to giving them access to outside support services, of the mandatory reporting rule governing privacy, confidentiality, and/or privilege that apply to disclosures of sexual abuse made to outside victim advocates, including any limits to confidentiality under relevant federal, state, or local law.

The auditor notes 115.253(b) pertains to the limits of confidentiality when speaking to staff from the aforementioned on-going resources (e.g. VA) available to clients who report sexual abuse. The standard requires

such limitations be articulated to clients prior to giving them access to such services. The auditor has not been provided any policy meeting the intent of the provision.

Eighteen of the 21 random client interviewees assert that what is said to staff from these services remains private. Thirteen interviewees assert conversations could be shared with or listened to in some circumstances. Examples of when conversations could be listened to or shared with someone else are the result of law enforcement use, crisis intervention rationale, Mandatory Reporting, sexual assault at the facility, or self injurious behavior. Notification of the same is accomplished pursuant to review of both the video and packets.

While there appears to be some compliance with the standard provision, the auditor finds CJSD non-compliant with 115.253(b) for the reasons articulated in the narrative for 115.253(a). Accordingly, corrective action is imposed in accordance with the above.

In view of the above, the auditor finds CJSD compliant with 115.253.

## Standard 115.254: Third-party reporting

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

#### 115.254 (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 a resident?  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*)

Pursuant to the PAQ, the Director self reports the facility provides a method to receive third-party reports of resident sexual abuse or sexual harassment. According to the Director, PREA posters are posted throughout the facility for the 1-877-DOC-TIPS line, etc., among other sources.

According to CJSD Policy 4.020 entitled PREA: Reporting, Intervention, and Monitoring, page 2, section A(8), knowledge of any sexual activity or misconduct can also be reported by a third party pursuant to any of the methods prescribed for clients, as referenced in the narrative for 115.251.

The auditor notes posters are available in a conference room where various community member meetings with clients are conducted. The auditor recommends poster(s) be displayed in visitation areas to accommodate those visitors who may not be computer illiterate or have access to a computer.

The auditor's review of the CJSD website reveals sufficient detail to facilitate third-party reporting.

In view of the above, the auditor finds CJSD substantially compliant with 115.254.

## OFFICIAL RESPONSE FOLLOWING A RESIDENT REPORT

### Standard 115.261: Staff and agency reporting duties

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

#### 115.261 (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? X  Yes  No
- Does the agency require all staff to report immediately and according to agency policy any knowledge, suspicion, or information regarding retaliation against residents or staff who reported an incident of sexual abuse or sexual harassment? X  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? X  Yes  No

#### 115.261 (b)

- Apart from reporting to designated supervisors or officials, do 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? X  Yes  No

#### 115.261 (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? X  Yes  No
- Are medical and mental health practitioners required to inform residents of the practitioner's duty to report, and the limitations of confidentiality, at the initiation of services? X  Yes  No

#### 115.261 (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? X  Yes  No

#### 115.261 (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? X  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*)

Pursuant to the PAQ, the Director self reports the agency requires all staff to report immediately and according to agency policy:

Any knowledge, suspicion, or information they receive regarding an incident of sexual abuse or sexual harassment that occurred in a facility, whether or not it is part of the agency;  
Any retaliation against clients or staff who reported such an incident; or  
Any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.

CJSD Policy 4.020 entitled PREA: Reporting, Intervention, and Monitoring, page 3, section B(1-3) addresses 115.261(a).

All 12 random staff interviewees assert CJSD requires all staff to report any knowledge, suspicion, or information regarding an incident of sexual abuse/harassment that occurred in a facility; retaliation against clients or staff who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation. Eleven of the 12 interviewees assert reports must be immediately forwarded to the supervisor, PC, and manager.

Pursuant to the PAQ, the Director self reports apart from reporting to designated supervisors or officials and designated state or local service agencies, agency policy prohibits staff from revealing any information related to a sexual abuse report to anyone other than to the extent necessary to make treatment, investigation, and other security and management decisions.

CJSD Policy 4.020 entitled PREA: Reporting, Intervention, and Monitoring, page 3, section B addresses 115.261(b). Additionally, CJSD Policy 4.030 entitled PREA: Investigation Requirements, section entitled Policy addresses 115.261(b).

CJSD Policy 4.025 entitled PREA: Victim Services, page 2, section F addresses 115.261(c).

The PC asserts no reports were received from the two part-time nurses during this audit period regarding sexual abuse wherein residents were informed of the practitioners duty to report, and the limitations of confidentiality, at the initiation of services. As previously stated, Health Services providers do not provide direct medical care to clients. However, if notified of a sexual abuse/harassment allegation while dispensing medication, all reporting procedures and expectations are invoked.

CJSD Policy 4.005 entitled PREA: Introduction to PREA, pages 6 and 7, section C addresses 115.261(d). The PC asserts reporting of allegations to the appropriate agency when a vulnerable adult is victimized is contingent upon the agency from which the client has been designated. This relates to follow-up reporting by CJSD staff.

According to the Agency Head/Director, individuals who have aged out (DYC- exceeded the age of 18) but are serving a juvenile sentence, on rare occasions, may be housed at CJSD. As mentioned in this report, In regard to vulnerable adults, sexual assault cases are reported to the Department of Human Services. The PC confirms the Agency Head/Director's statement.

CJSD Policy 4.005 entitled PREA: Introduction to PREA, page 2, section regarding the PC's responsibilities, addresses 115.261(e).

The Agency Head/Director asserts all allegations of sexual abuse/harassment (including those from third-party and anonymous sources) are reported directly to designated facility investigators.

The auditor's review of investigations wherein the PC and designated manager have been alerted to potential sexual abuse/harassment allegations is addressed throughout this report narrative.

In view of the above, the auditor finds CJSD substantially compliant with 115.261.

## Standard 115.262: Agency protection duties

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

#### 115.262 (a)

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

#### Auditor Overall Compliance Determination

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

Pursuant to the PAQ, the Director self reports when the facility learns that a client is subject to a substantial risk of imminent sexual abuse, it takes immediate action to protect the client (i.e., it takes some action to assess and implement appropriate protective measures without unreasonable delay). The Director further self reports in the past 12 months, there were 0 times the facility determined a client was subject to substantial risk of imminent sexual abuse.

CJSD Policy 4.020 entitled PREA: Reporting, Intervention, and Monitoring, pages 2 and 3, section A(9)(v) and pages 3 and 4, section C(1)(a)/C(2)(a-c) address 115.262(a).

The Agency Head/Director asserts when CJSD staff learn a client is subject to a substantial risk of imminent sexual abuse, he/she is removed from the danger zone and placed in another Day Room, if prudent. The potential victim is summarily supervised.

All 12 random staff interviewees assert when they learn a client is at risk of imminent sexual abuse, the potential victim is immediately separated from the potential perpetrator, removed from the danger zone, and supervised by staff.

In view of the above, the auditor finds CJSD substantially compliant with 115.262.

## Standard 115.263: Reporting to other confinement facilities

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

### 115.263 (a)

- Upon receiving an allegation that a resident 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? X  Yes  No

### 115.263 (b)

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

### 115.263 (c)

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

### 115.263 (d)

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

### Auditor Overall Compliance Determination

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

Pursuant to the PAQ, the Director self reports the agency has a policy requiring that, upon receiving an allegation a client was sexually abused while confined at another facility, the head of the facility must notify the head of the facility or appropriate office of the agency or facility where sexual abuse is alleged to have occurred. The Director further self reports in the past 12 months, the facility received one allegation that a client was sexually abused while confined at another facility.

CJSD Policy 4.015 entitled PREA: PREA Assessments, Housing, and Transgender/Gender Reassignment/ Intersex Considerations, page 3, section A(5) addresses 115.263(a), (b), and (c).

The auditor's review of the one client allegation of sexual abuse at another facility reveals CJSD staff received a letter from the alleged victim prior to January 12, 2017, regarding perpetual rapes he endured while confined at a Detention Facility. The alleged rapes by his cell mate were perpetrated during December, 2015.

The allegation had already been investigated by law enforcement and they provided a copy of the investigation to CJSD staff on January 12, 2017, the day of email request by CJSD staff. Of note, the alleged victim arrived at CJSD on February 4, 2017.

In view of the above, the auditor finds CJSD staff were proactive in terms of reporting the alleged incident to the jurisdiction, in question, and securing relevant documentation regarding the same. Specifically, the information was secured prior to the client's arrival at CJSD. Accordingly, the auditor finds CJSD substantially compliant with 115.263.

Pursuant to the PAQ, the Director self reports agency policy requires the facility head to provide such notification as soon as possible, but no later than 72 hours after receiving the allegation.

Pursuant to the PAQ, the Director self reports the facility documents it has provided such notification within 72 hours of receiving the allegation.

Pursuant to the PAQ, the Director self reports facility policy requires allegations received from other facilities/agencies are investigated in accordance with PREA standards. The Director further self reports in the past 12 months, 0 allegations of sexual abuse were received by the facility from other facilities.

CJSD Policy 4.020 entitled PREA: Reporting, Intervention, and Monitoring, page 1, section entitled Policy addresses 115.263(d). Additionally, CJSD Policy 4.020 entitled PREA: Investigation Requirements, section entitled Policy addresses 115.263(d).

The Agency Head/Director asserts if an allegation of sexual abuse (allegedly occurred at CJSD) is received from another facility or agency, the allegation is immediately investigated and the reporting Warden, Director, etc. is advised of the results of the investigation. The interviewee asserts he does not believe any such allegations were received from other facilities during the audit period.

In view of the above, the auditor finds CJSD substantially compliant with 115.263.

## Standard 115.264: Staff first responder duties

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

#### 115.264 (a)

- Upon learning of an allegation that a resident was sexually abused, is the first security staff member to respond to the report required to: Separate the alleged victim and abuser?  
X  Yes  No
- Upon learning of an allegation that a resident 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? X  Yes  No
- Upon learning of an allegation that a resident 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? X  Yes  No
- Upon learning of an allegation that a resident 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 X  No

#### 115.264 (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? X  Yes  No

### Auditor Overall Compliance Determination

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

Pursuant to the PAQ, the Director self reports the agency has a first responder policy for allegations of sexual abuse. Specifically, upon learning of an allegation that a client was sexually abused, the first security staff member to respond to the report shall be required to:

- 1) Separate the alleged victim and abuser;
- 2) Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence;
- 3) If the abuse occurred within a time period that still allows for the collection of physical evidence, request 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; and
- 4) If the abuse occurred within a time period that still allows for the collection of physical evidence, ensure the alleged abuser does not take any actions that could destroy physical evidence such as those described in paragraph 3 above.

The Director self reports there was one allegation of sexual misconduct during the last 12 months. However, the auditor finds there was four criminal or administrative sexual abuse/sexual misconduct investigations facilitated at CJSD. Pursuant to the auditor's review, one of those investigations is more accurately classified as sexual harassment and another is very marginally considered sexual assault. However, for purposes of this review, the auditor will consider three of the investigations as sexual abuse/misconduct.

According to the Director, there were no incidents wherein the first security staff responder was required to complete any of the first responder duties as articulated above.

CJSD Policy 4.030 entitled PREA Investigation Requirements, page 2, section A(2)(a-d) addresses 115.264(a). This policy stipulates if the alleged incident occurred within a time frame that allows for the collection of physical evidence, request the abuser not take any actions that may destroy physical evidence as articulated above.

The auditor notes the standard requires staff ensure the alleged abuser not take any actions that could destroy physical evidence. Pursuant to the auditor's review of the report for the last PREA audit, he finds the same requires insertion of the caveat that staff request the abuser not take any actions that may destroy physical evidence as articulated above, into policy. Accordingly, the auditor has determined there is no finding regarding this policy and training error.

Five of 12 random staff interviewees assert the first step in terms of uniform evidence preservation is separation of the victim and perpetrator and 11 of the 12 interviewees assert securing the crime scene is the second step. One of the 12 interviewees asserts the third step involves requesting the victim not destroy physical evidence. None of the 12 interviewees assert the fourth step involves ensuring the abuser does not destroy physical evidence.

The resident who reported a sexual abuse interviewee asserts staff approached to assist immediately following his report of abuse. He further advised staff met with him the next day following his report.

Of note, as previously mentioned, the auditor finds no First Responder issues with the fact pattern as articulated in the investigation.

The interviewee asserts staff who first met with him initiated threshold questioning. Based on the fact pattern, there was no physical evidence.

While the auditor finds no deviation from standard in this matter, corrective action, as defined in the narrative for 115.221 must also be implemented to satisfy 115.264.

Pursuant to the PAQ, the Director self reports agency policy requires if the first responder is not a security staff member, that responder shall be required to:

- 1) Request that the alleged victim not take any actions that could destroy physical evidence; and
- 2) Notify security staff.

The Director further self reports that of the allegations of sexual abuse within the past 12 months, there were 0 times that a First Responder was a non-security staff member.

CJSD Policy 4.030 entitled PREA Investigation Requirements, page 2, section A(2)(e) addresses 115.264(b).

The auditor notes non-security staff receive the same First Responder training in comparison to security staff.

In view of the above, the auditor finds CJSD substantially compliant with 115.264.

## Standard 115.265: Coordinated response

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

#### 115.265 (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*)

Pursuant to the PAQ, the Director self reports the facility has developed a written institutional plan to coordinate actions taken in response to an incident of sexual abuse among staff First Responders, medical and mental health practitioners, investigators, and facility leadership. The auditor notes medical/mental health care is not provided at CJSD and accordingly, SAFE/SANE care is identified by MOU.

While the CJSD Coordinated Response Process flow chart is quite specific, the same only reflects part of First Responder Duties. Nothing is reflected in the document regarding requesting the victim to not destroy physical evidence and ensuring the abuser does not destroy physical evidence. This document conflicts with 115.264 and hence 115.265(a) as the subject-matter must be accurate.

CJSD Policy 4.030 entitled PREA Investigation Requirements, page 2, section A(2)(a-d) addresses 115.264(a). This policy stipulates if the alleged incident occurred within a time frame that allows for the collection of physical evidence, request the abuser not take any actions that may destroy physical evidence as articulated above.

The auditor notes the standard requires staff ensure the alleged abuser not take any actions that could destroy physical evidence. Pursuant to the auditor's review of the report for the last PREA audit, he finds the same requires insertion of the caveat that staff request the abuser not take any actions that may destroy physical evidence as articulated above, into policy. Accordingly, the auditor has determined there is no finding regarding this policy and training error.

The auditor's thought process with respect to 115.265(a) follows the exact consideration articulated in the preceding paragraph. While the auditor is making no finding regarding 115.265(a), he is requiring corrective action be taken to address current policy, forms, and staff training. Accordingly, the corrective action articulated in 115.221(a) is likewise applicable to 115.265(a).

The Director asserts the facility has a plan to coordinate actions among staff first responders, medical and mental health practitioners, investigators, and facility leadership in response to an incident of sexual abuse. The Director further asserts the schematic is very specific to staff roles.

In view of the above, the auditor finds CJSD substantially compliant with 115.265(a).

## **Standard 115.266: Preservation of ability to protect residents from contact with abusers**

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

#### **115.266 (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 residents pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted? X  Yes  No

#### **115.266 (b)**

- Auditor is not required to audit this provision.

### **Auditor Overall Compliance Determination**

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

Pursuant to the PAQ, the Director self reports the facility is not involved in any collective bargaining process, either currently or since the last PREA audit.

The Agency Head/Director asserts the agency has not entered into or renewed any collective bargaining agreements or other agreements with labor since the last PREA audit.

In view of the above, the auditor finds CJSD substantially compliant with 115.266 since there has been no deviations during this audit period.

## Standard 115.267: Agency protection against retaliation

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

#### 115.267 (a)

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

#### 115.267 (b)

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

#### 115.267 (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 residents or staff? X  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 residents who were reported to have suffered sexual abuse to see if there are changes that may suggest possible retaliation by residents or staff? X  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? X  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 resident disciplinary reports? X  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 resident housing changes? X  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 resident program changes? X  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? X  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? X  Yes  No
- Does the agency continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need? X  Yes  No

#### 115.267 (d)

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

#### 115.267 (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? X  Yes  No

#### 115.267 (f)

- Auditor is not required to audit this provision.

#### Auditor Overall Compliance Determination

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

Pursuant to the PAQ, the Director self reports the agency has a policy to protect all clients and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other clients or staff. According to the Director, the PC is the designated retaliation monitor at CJSD for clients and a specific manager is the retaliation monitor for staff.

CJSD Policy 4.020 entitled PREA: Reporting, Intervention, and Monitoring, pages 4 and 5, sections C(3)(a) and (b) addresses 115.267(a).

CJSD Policy 4.020 entitled PREA: Reporting, Intervention, and Monitoring, page 5, section C(3)(a)(i-v) addresses 115.267(b).

The Agency Head/Director asserts the PC and a manager are identified as retaliation monitors. Retaliation monitoring can continue until release. Strategies utilized to address retaliation monitoring are change of client housing units, transfer of client (victim) to another facility, if approved and dependent upon the circumstances, and remove alleged abusers from the facility. Staff can be reassigned to another post and removed from contact with the victim, etc.

In response to the role the retaliation monitoring interviewee plays in preventing retaliation against residents and staff who report sexual abuse/harassment or who cooperate with sexual abuse/harassment investigations, she relates the following:

1. A Retaliation Monitoring form is initiated;
2. Victims and perpetrators will be separated, minimally, by moving each to different Day Rooms;
3. Use staff to transport clients to work/ community appointments/community activities, as opposed to, public transportation wherein retaliation opportunity might be increased;
4. Transfer perpetrator to another facility;
5. Employ Crisis Intervention Team (CIT- specially trained staff who can provide a higher level of awareness and intervention) to assist victims;
6. CIT can provide emotional support services to victims;
7. If necessary, the PC would facilitate a referral to Mine Springs or Lattimer House for counseling or advocacy services.

Once the interviewee receives notification of a reported allegation, she seeks out the victim and maintains contact with the victim on a bi-weekly basis, minimally.

The client who reported a sexual abuse interviewee asserts he feels protected enough against possible revenge from staff or other clients because he reported what happened to him.

Pursuant to the PAQ, the Director self reports the facility monitors the conduct or treatment of clients or staff who reported sexual abuse and of clients who were reported to have suffered sexual abuse to see if there are any changes that may suggest possible retaliation by clients or staff. The Director reports retaliation monitoring is continued for at least 90 days or more, if necessary. The facility does act promptly to remedy such retaliation.

The facility continues such monitoring beyond 90 days if the initial monitoring indicates a continuing need. The Director self reports retaliation has not been found to have occurred within the last 12 months.

CJSD Policy 4.020 entitled PREA: Reporting, Intervention, and Monitoring, page 5, section C(3)(b)(i-iii) addresses 115.267(c).

The Director asserts when retaliation is suspected, the perpetrator may be removed to jail. If the perpetrator is a staff member, he/she may be suspended or employment terminated.

The designated staff member charged with retaliation monitoring interviewee asserts she looks for and monitors the following in terms of possible retaliation against clients:

1. Reviews all Retaliation Monitoring Forms, assessing changes from the previous contact;
2. Reviews work assignment history/changes/and frequency of changes. Housing changes are also reviewed and assessed in the same manner as work assignment changes;
3. Assesses increases in grievances;
4. Reviews loss of Earn Good Time and assesses the rationale behind the same;
5. Reviews and assesses increases in receipt of disciplinary reports;
6. Reviews and assesses "Behavior Entries" and the nature/basis for the same;
7. Monitors hygiene decline;
8. Monitors isolation; and
9. Monitors mental health status.

With respect to potential staff victims of retaliation, the Manager charged with monitoring the same;

1. Reviews, monitors, and assesses job assignments/reassignments;
2. Monitors "poor performance" issues;
3. Monitors call-offs;
4. Monitors isolation; and
5. Monitors behavioral changes.

The interviewee further asserts retaliation monitoring of conduct and treatment is facilitated for a minimum of 90 days, which can be extended for good cause. She also asserts there is no maximum length for retaliation monitoring.

The auditor's review of seven 2017 and 2018 sexual abuse/harassment investigations reveals four investigations were Unfounded. In one case, the incident occurred on July 6, 2017 and the client was notified of the Substantiated finding on July 13, 2017. While the client was released to NYC Parole, on July 30, 2017, retaliation monitoring was initiated between July 13, 2017 and July 30, 2017.

In another case in which the incident occurred on June 4, 2018, retaliation monitoring was not initiated or completed.

In another case, the incident occurred on March 16, 2018 and GJPD completed a criminal investigation on April 26, 2018. Retaliation monitoring was not initiated in this case.

In view of the above, the auditor finds CJSD non-compliant with 115.267(c) as in two of three random applicable cases, retaliation monitoring was not completed and there were no mitigating circumstances. Accordingly, the auditor is imposing a 180-day corrective action wherein CJSD will substantiate compliance with 115.267(c).

To demonstrate compliance with 115.267(c), the PC will forward to the auditor copies of any sexual abuse/harassment "Substantiated" or "Unsubstantiated" PREA investigation(s), completed since the closure of the on-site audit, and any accompanying retaliation monitoring documentation for review and assessment of institutionalization. If no incidents of this nature occur prior to the designated corrective action date, the PC will develop a mock scenario(s) involving a sexual abuse/harassment investigation. The PC will forward to the auditor a copy of the mock investigation and accompanying retaliation monitoring documents for review and assessment.

Upon receipt of the above, the auditor will review the same and make a determination regarding institutionalization. The completion date for corrective action is September 13, 2019.

The auditor has not been provided any policy citation(s) regarding periodic status checks. Additionally, he has not been provided any evidence substantiating completion of periodic status checks as part of the retaliation monitoring process.

In view of the above, the auditor finds CJSD non-compliant with 115.267(d). Accordingly, the auditor imposes a 180-day corrective action period in which CJSD will demonstrate compliance with the provision.

To demonstrate compliance, the PC will ensure language regarding periodic status checks and documentation of the same is written into the applicable policy. Subsequent to the policy amendment, the PC will forward the same to the auditor for review. Subsequent to the same, the PC will provide training to all relevant stakeholders regarding the mechanics of the policy amendment.

Given the small scope of stakeholders, this can be accomplished pursuant to a memorandum articulating the change(s)/addition(s) or provision of a highlighted copy of the policy complete with explanation, if necessary. The PC will provide the copy of the lesson plan (as described above) and the Training Agenda form bearing participants' printed name/signature/date and the "I understand." caveat. The auditor will retain the same for the audit record.

The completion date for this corrective action is September 13, 2019.

#### **September 17, 2019 Update:**

**The auditor's review of CJSD Policy 4.020 entitled PREA Reporting, Intervention, and Monitoring, page 5, section C(3)(b) reveals substantial compliance with 115.267(c). Requisite language regarding status checks and documentation of the same on the appropriate form are clearly articulated at the afore-mentioned citation.**

**The auditor's review of one investigation facilitated since the on-site audit reveals substantial compliance with 115.267(c) and (d). The incident allegedly occurred on June 18, 2019 and the investigation concluded on June 20, 2019. Retaliation Monitoring meetings with the client victim occurred on June 21, 2019 and July 1, 2019, despite the fact the investigation determined the allegation was Unfounded. Accordingly, retaliation monitoring, pursuant to standard, terminates when a finding of Unfounded is rendered. Of note, the SART was completed on July 3, 2019, well within standard requirements.**

**The auditor's review of Training Agenda documents dated July 31, 2019 and August 28, 2019 reveals 46 staff were trained regarding the above subject-matter. The document reflects staff understand the subject-matter presented during the training and attendees signed for their participation in the same.**

**The auditor now finds CJSD compliant with 115.267(c) and (d).**

CJSD Policy 4.020 entitled PREA: Reporting, Intervention, and Monitoring, pages 4 and 5, sections C(3)(a) and (b) addresses 115.267(e).

The Agency Head/Director asserts if an individual who cooperates with an investigation expresses fear of retaliation, regular retaliation monitoring procedures are implemented by either the PC or the manager, whichever is appropriate to the circumstances.

In view of the above, the auditor finds CJSD compliant with 115.267.

## INVESTIGATIONS

### Standard 115.271: Criminal and administrative agency investigations

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

#### 115.271 (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 115.221(a).] X  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 115.221(a).] X  Yes  No  NA

#### 115.271 (b)

- Where sexual abuse is alleged, does the agency use investigators who have received specialized training in sexual abuse investigations as required by 115.234? X  Yes  No

#### 115.271 (c)

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

#### 115.271 (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? X  Yes  No

#### 115.271 (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 resident or staff? X  Yes  No
- Does the agency investigate allegations of sexual abuse without requiring a resident who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding? X  Yes  No

#### 115.271 (f)

- Do administrative investigations include an effort to determine whether staff actions or failures to act contributed to the abuse? X  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? X  Yes  No

#### 115.271 (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? X  Yes  No

#### 115.271 (h)

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

#### 115.271 (i)

- Does the agency retain all written reports referenced in 115.271(f) and (g) for as long as the alleged abuser is incarcerated or employed by the agency, plus five years? X  Yes  No

#### 115.271 (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? X  Yes  No

#### 115.271 (k)

- Auditor is not required to audit this provision.

#### 115.271 (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 115.221(a).] X  Yes  No  NA

#### Auditor Overall Compliance Determination

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

Pursuant to the PAQ, the Director self reports the facility has a policy related to criminal and administrative agency investigations.

CJSD Policy 4.030 entitled PREA: Investigation Requirements, page 1, section entitled Policy addresses 115.271(a).

The investigative staff interviewee asserts in the event a sexual assault allegation is received during non-regular business hours, investigative staff would promptly report to the facility. They would coordinate with GJPD regarding evidence collection and matters germane to a criminal investigation.

In regard to sexual harassment allegations, the decision to report to the facility is based on facts known at the time. Contact with the shift supervisor will guide the decision. While preliminary evidence gathering (interviews) occur commensurate with the reported allegation, the investigation may not commence until the next day, dependent upon the circumstances.

The auditor's review of the seven random sexual assault/harassment investigations referenced in the narrative for 115.267 reveals timely, thorough, and objective investigations were conducted in each matter.

Training records and a discussion regarding the training attended by the two properly trained CJSD sexual abuse/harassment investigators are addressed in the narrative for 115.234.

CJSD Policy 4.035 entitled PREA CJSD Staff and Contractor Education/Discipline, page 2, section A(5) addresses 115.271(b).

The investigative staff interviewee asserts she received training specific to conducting sexual abuse investigations in confinement settings. The training encompassed interviewing sexual abuse victims in a confinement setting, evidence collection, Miranda warnings, and other topics. The same was presented in a classroom setting, a full day class. During the training course, some scenario work was facilitated. The auditor notes in one of the seven random administrative investigations reviewed by the auditor that the investigator was not certified. However, in six cases, the investigator was properly trained and certified. Accordingly, the auditor finds CJSD substantially compliant with 115.271(b).

CJSD Policy 4.030 entitled PREA: Investigation Requirements, pages 4 and 5, sections C(1-3) and D address 115.271(c).

In response to questioning as to the first steps of an investigation and the investigative process, in general, the investigative staff interviewee asserts the following protocol and approximate time frames for completion of steps, is followed:

1. Determine the nature of the allegation and who is/was involved. Assess information available pursuant to telephonic conversations with staff or review of information in system (20-30 minutes);
2. Threshold questioning of the victim (20-60 minutes);
3. Review video (one hour, minimally);
4. If any questions arise following the above, the investigator answers the same pursuant to reevaluation of evidence and follow-up questioning of staff, if they are witnesses (one hour);
5. Download relevant video (one hour);
6. Interview witnesses (one hour);
7. Review staff files, if appropriate, and client files (30 minutes to one hour);
8. The investigative staff interviewee ordinarily interviews the alleged perpetrator in an administrative sexual harassment investigation (up to one hour).

In regard to direct/circumstantial evidence gathered by the investigative staff interviewee during a sexual abuse investigation, she asserts client records reflective of history of sexual abuse, client's history of report-

ing sexual abuse, and client's criminal record information would be collected. Additionally, staff written reports and video are collected.

The auditor's review of random administrative investigations reveals investigators gathered relevant facts and actually comprehensive evidence to address the allegation(s) in totality. Investigations were very thorough, logical, and organized covering all allegations and subsequent information provided by victims/witnesses.

The auditor has not been provided any policy documentation stipulating whether CJSD conducts compelled interviews only after consulting with prosecutors as to whether the same may be an obstacle for subsequent prosecution. Accordingly, the auditor finds CJSD non-compliant with 115.271(d). The auditor imposes a 180-day corrective action period in which insertion of this provision in policy will be accomplished and the provision will be institutionalized.

To complete corrective action, the PC will provide to the auditor a copy of the amended policy bearing the language of 115.271(d). The PC will also ensure relevant stakeholders are properly trained regarding this provision. Accordingly, the PC will provide to the auditor a copy of the Training Agenda bearing attendee signatures/dates and the "I understand" caveat. A copy of the relevant lesson plan will also be provided.

The completion date for this corrective action is established as September 13, 2019.

#### **September 17, 2019 Update:**

**The auditor's review of amended CJSD Policy 4.030 entitled PREA Investigation Requirements, page 2, section A(3) reveals substantial compliance with 115.271(d). The amended policy clearly articulates requisite verbiage as required in the standard.**

**The auditor's review of Training Agenda documents dated July 31, 2019 and August 28, 2019 reveals 46 staff were trained regarding the above subject-matter. The document reflects staff understand the subject-matter presented during the training and attendees signed for their participation in the same.**

**The auditor now finds CJSD compliant with 115.271(d).**

The investigative staff interviewee asserts compelled interviews are not conducted by CJSD sexual abuse/harassment investigators. Rather, the same falls within the sole purview of criminal investigators (GJPD or MCSO).

The auditor's review of the seven random administrative investigation reports reveals compelled interviews were not conducted by CJSD investigators. CJSD Policy 4.030 entitled PREA: Investigation Requirements, page 4, section C(1) addresses 115.271(e).

The investigative staff interviewee asserts credibility assessments are based on the following:

1. The client's history of reporting incidents (both sexual abuse/harassment/ and daily client conduct issues);
2. Accuracy in terms of information provided during other investigations (same as #1);
3. Is there a motivation behind reporting?;
4. Mental health status;
5. History of trauma;
6. Drug/alcohol abuse history; and
7. The reporter or witness is credible until proven otherwise.



The interviewee also asserts she would not, under any circumstances, require a client who alleges sexual abuse to submit to a polygraph examination or truth-telling device as a condition for proceeding with an investigation.

The client who reported a sexual abuse interviewee asserts he/she was not required to take a polygraph test as a condition for proceeding with a sexual abuse allegation.

CJSD Policy 4.030 entitled PREA: Investigation Requirements, page 4, sections C(2) and (3) addresses 115.271(f).

The investigative staff interviewee asserts she assesses whether staff acted within the scope of their employment based on training, policy, practice, and whether they lied during the investigation, to determine whether staff actions or failures to act contributed to the sexual abuse.

The interviewee also asserts administrative investigations are documented in a written report. The report contains the following:

1. The allegation is clearly documented;
2. Interview summaries are clearly articulated;
3. Physical/direct evidence is identified, summarized, and assessed;
4. Credibility of the victim, perpetrator, and witness(es) is assessed; and
5. A finding and conclusion are clearly articulated.

The auditor's review of random administrative reports as referenced throughout this narrative reveals substantial compliance with the requirements of 115.271(f). However, in one of the seven investigative reports, a conclusion was not articulated in the same.

The investigative staff interviewee asserts criminal investigations are documented. The same types of information are included in criminal investigative reports, as compared to, administrative investigation reports.

The auditor's review of one criminal report corroborates the investigative staff's statement.

Pursuant to the PAQ, the Director self reports substantiated allegations of conduct that appear to be criminal are referred for prosecution. The Director further self reports there was one substantiated allegation of conduct that appeared to be criminal that was referred for prosecution since the last PREA audit.

CJSD Policy 4.030 entitled PREA: Investigation Requirements, page 5, section D addresses 115.271(h).

The investigative staff interviewee asserts she refers allegations for criminal investigation when she is convinced a crime has been committed. GJPD investigators are responsible for prosecution referrals.

Pursuant to the PAQ, the Director self reports the agency retains all written reports referenced in the above paragraphs of this section for as long as the alleged abuser is incarcerated or employed by the agency, plus five years.

CJSD Policy 4.040 entitled PREA: Staffing, Monitoring, and Data, page 3, sections D(9) addresses 115.271(i).

The auditor found no deviations from the requirements of 115.271(i).

CJSD Policy 4.030 entitled PREA: Investigation Requirements, page 5, section D(2) addresses 115.271(j).

The investigative staff interviewee asserts when a staff member alleged to have committed sexual abuse terminates employment prior to a completed investigation into his/her conduct or a victim who alleges sexual

abuse/harassment leaves the facility prior to a completed investigation into the incident, she completes the investigation, regardless.

The Director asserts if an outside agency investigates allegations of sexual abuse, the Director or PC checks with the GJPD liaison weekly. The PC corroborates the Director's statement. The investigative staff interviewee asserts she acts as a liaison whenever an outside entity investigates sexual abuse at CJSD. She arranges client interviews, provides documentation and evidence, essentially whatever is needed.

In view of the above, the auditor finds CJSD compliant with 115.271.

## Standard 115.272: Evidentiary standard for administrative investigations

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

#### 115.272 (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? X  Yes  No

### Auditor Overall Compliance Determination

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

Pursuant to the PAQ, the Director self reports the agency imposes a standard of a preponderance of the evidence or a lower standard of proof when determining whether allegations of sexual abuse or sexual harassment are substantiated.

CJSD Policy 4.030 entitled PREA Investigation Requirements, page 3, section A(4) addresses 115.272(a).

The investigative staff interviewee asserts a preponderance of evidence is required to substantiate allegations of sexual abuse/harassment.

The auditor's review of the sexual abuse/harassment investigations referenced in 115.271 reveals the requisite standard of evidence is employed with respect to administrative investigations.

In view of the above, the auditor finds CJSD substantially compliant with 115.272.

## Standard 115.273: Reporting to residents

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

#### 115.273 (a)

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

#### 115.273 (b)

- If the agency did not conduct the investigation into a resident'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 resident? (N/A if the agency/facility is responsible for conducting administrative and criminal investigations.) X  Yes  No  NA

#### 115.273 (c)

- Following a resident'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 resident's unit? X  Yes  No
- Following a resident'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? X  Yes  No
- Following a resident'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? X  Yes  No
- Following a resident'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? X  Yes  No

#### 115.273 (d)

- Following a resident's allegation that he or she has been sexually abused by another resident, 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? X  Yes  No
- Following a resident's allegation that he or she has been sexually abused by another resident, 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? X  Yes  No

#### 115.273 (e)

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

#### 115.273 (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*)

Pursuant to the PAQ, the Director self reports the agency has a policy requiring that any client who makes an allegation that he or she suffered sexual abuse in an agency facility is informed, verbally or in writing, as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded following an investigation by the agency. The Director self reports five administrative investigations of sexual abuse/misconduct/harassment were conducted at CJSD during the last 12 months.

The auditor has learned the criminal investigation in one of these matters has concluded and the same is Unfounded.

CJSD Policy 4.030 entitled PREA Investigation Requirements, page 2, section A(3)(a) addresses 115.273(a). This policy stipulates such notifications will be made upon the conclusion of any administrative/criminal investigation. As the policy references both sexual abuse/harassment and there is no specific reference to notifications pertaining solely to sexual abuse cases, the auditor must construe this policy applicable to sexual abuse and sexual harassment.

The Director asserts CJSD does notify a resident who makes an allegation of sexual abuse when the allegation has been determined to be substantiated, unsubstantiated, or unfounded following an investigation. He asserts the PC, Director, or the investigative manager makes notifications.

The investigative staff interviewee essentially corroborates the Director with the exception the PC makes client notifications and she makes notifications when alleged staff victims are involved.

The client who reported a sexual abuse interviewee asserts he does not recall whether he was notified the allegation was either substantiated, unsubstantiated, or unfounded.

The auditor's review of seven random sexual abuse/sexual misconduct and sexual harassment investigations (2017 and 2018) reveals there is no evidence requisite notifications were provided to affected clients as required by 115.273(a) in five of the seven cases. The auditor has been provided no evidence of notification, as documented in either the body of the investigative report or in the client's file.

In view of the above, the auditor finds CJSD non-compliant with 115.273(a). Accordingly, the auditor imposes a 180-day corrective action period in which compliance must be demonstrated.

To accomplish compliance, the PC will provide to the auditor copies of all sexual abuse/sexual misconduct/sexual harassment investigations and accompanying documentation of notifications to clients as stipulated in 115.273(a, b, c, and e). The above documentation commences with any investigations conducted following completion of the on-site audit. Provision of the requisite documents will be provided throughout the corrective action period as referenced below.

As policy is clear regarding standard requirements (the PC is responsible for provision of such notifications) such training is acknowledged for the PC. The PC will, however, provide training to the other investigator (manager) and the Director, providing the auditor with a copy of the lesson plan and relevant training document reflecting the participant understands the subject-matter presented. The auditor will include this documentation in the audit file.

The corrective action completion date is September 13, 2019.

Pursuant to the PAQ, the Director self reports if an outside entity conducts such investigations, the agency requests the relevant information from the investigative entity in order to inform the client of the outcome of the investigation. The Director further self reports during the last 12 months, one investigation of alleged client sexual abuse in the facility was completed by an outside agency and the client was notified verbally or in writing of the results of the investigation.

CJSD Policy 4.030 entitled PREA Investigation Requirements, page 2, section A(3)(a) addresses 115.273(b).

The auditor's review of the investigation (administrative and criminal investigation referenced above) and accompanying documentation reveals no evidence of client notification regarding the finding of the outside investigative agency relative to the investigation. Accordingly, the auditor finds CJSD non-compliant with 115.273(b). Corrective action, as articulated in the narrative for 115.273(a) also applies to 115.273(b).

Pursuant to the PAQ, the Director self reports following a client's allegation a staff member has committed sexual abuse against the client, the facility subsequently informs the client (unless the agency has determined the allegation is unfounded) whenever:

The staff member is no longer posted within the client's unit;

The staff member is no longer employed at the facility;

The agency learns the staff member has been indicted on a charge related to sexual abuse within the facility; and/or

The agency learns the staff member has been convicted on a charge related to sexual abuse within the facility.

The Director further self reports there has been a substantiated or unsubstantiated complaint (e.g. not unfounded) of sexual abuse committed by a staff member against a client in an agency facility in the past 12 months.

In a follow-up conversation with the PC, the auditor was advised the staff member, in question, was not indicted or convicted. The auditor's review of all relevant documentation in this staff-on-client sexual misconduct matter reveals the requisite notification regarding the alleged perpetrator no longer being posted in the client's unit and the staff member no longer being employed at the facility, was not provided to the victim.

This fact pattern also results in a non-compliance finding related to 115.273(c) and imposition of a 180-day corrective action period, ending on or before September 13, 2019. The corrective action plan parallels that articulated in the narrative for 115.273(a), as applicable to the requirements of 115.273(c).

CJSD Policy 4.030 entitled PREA Investigation Requirements, page 3, section A(3)(b)(i-iv) addresses 115.273(c).

As the alleged sexual abuse (relative to the client who reported a sexual abuse interviewee) was client-on-client, the question regarding notification about staff perpetrators is not applicable.

Pursuant to the PAQ, the Director self reports following a client's allegation he or she has been sexually abused by another client at CJSD, the agency subsequently informs the alleged victim whenever:

The agency learns the alleged abuser has been indicted on a charge related to sexual abuse within the facility; or

The agency learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility.

Pursuant to conversation with the PC, the auditor has learned no client-on-client perpetrators of sexual abuse have been indicted or convicted during the last 24 months.

CJSD Policy 4.030 entitled PREA Investigation Requirements, page 2, section A(3)(b)(i and ii) addresses 115.273(d).

The client who reported a sexual abuse interviewee asserts he was not notified if the agency learned the alleged abuser had been indicted on a charge related to sexual abuse within the facility or the agency learned the alleged abuser had been convicted on a charge related to sexual abuse within the facility.

In view of the fact the client-on-client sexual abuse/sexual harassment perpetrator was not indicted, charged, or convicted with respect to any offenses associated with the incident, in question, the auditor deems the provision not applicable to CJSD.

Pursuant to the PAQ, the Director self reports the agency has a policy that all notifications to clients described under this standard are documented. The lack of notifications in accordance with 115.273(e) (documented) are discussed above and corrective actions also apply to 115.273(e).

CJSD Policy 4.030 entitled PREA Investigation Requirements, page 3, section A(3)(c) addresses 115.273(e).

**September 18, 2019 Update:**

**The auditor's review of the investigation and associated documentation discussed in the narrative for 115.267 reveals substantial compliance with 115.273, in entirety. In a document entitled Written Notification to Referral and Oversight Agencies date July 1, 2019 and authored by the CJSD PC, she notes the alleged victim was notified of the Unfounded finding regarding his allegation. The notification occurred on July 1, 2019.**

**The auditor's review of Training Agenda documents dated July 31, 2019 and August 28, 2019 reveals 46 staff were trained regarding the above subject-matter. The document reflects staff understand the subject-matter presented during the training and attendees signed for their participation in the same.**

**The auditor now finds CJSD compliant with 115.273(a), (b), (c), and (e).**

In view of the above, the auditor finds CJSD compliant with 115.273.

## DISCIPLINE

### Standard 115.276: Disciplinary sanctions for staff

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

#### 115.276 (a)

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

#### 115.276 (b)

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

#### 115.276 (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

#### 115.276 (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*)

Pursuant to the PAQ, the Director self reports staff is subject to disciplinary sanctions up to and including termination for violating agency sexual abuse or sexual harassment policies.

CJSD Policy 4.035 entitled PREA CJSD Staff and Contractor Training/Discipline, page 3, section C(1) addresses 115.276(a).

Pursuant to the PAQ, the Director self reports in the past 12 months, one facility staff member is alleged to have violated agency sexual abuse or sexual harassment policies. His employment was terminated for violating agency sexual abuse/harassment policies.

CJSD Policy 4.035 entitled PREA CJSD Staff and Contractor Training/Discipline, page 3, section C(2) addresses 115.276(b).

The auditor's review of the disciplinary action associated with the one relevant case reveals substantial compliance with 115.276(b).

Pursuant to the PAQ, the Director self reports disciplinary sanctions for violations of agency policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) are commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories. The Director further self reports that in the past 12 months, 0 staff from the facility have been disciplined, short of termination, for violation of agency sexual abuse or sexual harassment policies.

CJSD Policy 4.035 entitled PREA CJSD Staff and Contractor Training/Discipline, page 3, section C(3) addresses 115.276(c).

Pursuant to the PAQ, the Director self reports all employment 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, are reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies. The Director further self reports during the last 12 months, one facility staff member has been reported to law enforcement or licensing boards following employment termination (or resignation prior to termination) for violating agency sexual abuse or sexual harassment policies.

CJSD Policy 4.035 entitled PREA CJSD Staff and Contractor Training/Discipline, page 3, section C(4) addresses 115.276(d).

The auditor notes the allegation was referred to GJPD for criminal investigation.

In view of the above, the auditor finds CJSD substantially compliant with 115.276.

## Standard 115.277: Corrective action for contractors and volunteers

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

#### 115.277 (a)

- Is any contractor or volunteer who engages in sexual abuse prohibited from contact with residents?  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

#### 115.277 (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 residents?  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*)

Pursuant to the PAQ, the Director self reports agency policy requires any contractor or volunteer who engages in sexual abuse be reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies. Additionally, the Director self reports agency policy requires any contractor or volunteer who engages in sexual abuse be prohibited from contact with clients. Ac-



ording to the Director, in the past 12 months, one contractor or volunteer has been reported to law enforcement agencies and relevant licensing bodies.

CJSD Policy 4.035 entitled PREA CJSD Staff and Contractor Training/Discipline, page 3, section D(1) addresses 115.277(a).

The auditor's review of the record in this matter reveals the allegation was brought to the attention of CJSD staff (by a third-party) on August 6, 2018. The PC and one other individual facilitated a preliminary investigation, ultimately referring the matter to MCSO on the same date. The contractor was banned from CJSD and he/she ultimately resigned his/her employment with MCDC. The contractor, in question, was not employed by CJSD rather, he/she was employed by MCDC.

In view of the above, it is clear appropriate steps were taken in this matter, ensuring compliance with 115.277(a) and (b).

Pursuant to the PAQ, the Director self reports the facility takes appropriate remedial measures and considers whether to prohibit further contact with clients in the case of any other violation of agency sexual abuse or sexual harassment policies by a contractor or volunteer.

The Director asserts in the case of any violation of agency sexual abuse/harassment policies by a contractor/volunteer, the contractor's/volunteer's access privileges are immediately suspended pending investigation or terminated.

In view of the above, the auditor finds CJSD substantially compliant with 115.277.

## **Standard 115.278: Interventions and disciplinary sanctions for residents**

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

#### **115.278 (a)**

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

#### **115.278 (b)**

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

#### **115.278 (c)**

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

#### **115.278 (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 of-

fending resident to participate in such interventions as a condition of access to programming and other benefits? X  Yes  No

#### 115.278 (e)

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

#### 115.278 (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? X  Yes  No

#### 115.278 (g)

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

#### Auditor Overall Compliance Determination

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

Pursuant to the PAQ, the Director self reports clients are subject to disciplinary sanctions only pursuant to a formal disciplinary process following an administrative finding that the client engaged in client-on-client sexual abuse. The Director also self reports clients are subject to disciplinary sanctions only pursuant to a formal disciplinary process following a criminal finding of guilt for client-on-client sexual abuse.

CJSD Policy 1.3120D entitled Formal Disciplinary Hearings, page 1, section entitled Policy addresses 115.278(a). Pages 1-4 specify the Due Process standards employed during administrative disciplinary hearings.

Although the two Incident Reports (misconduct reports) reviewed by the auditor were identified as sexual harassment, the same reflects the commitment of CJSD to address all matters PREA at the facility. The auditor finds no evidence of deviation from 115.278(a).

CJSD Policy 1.3120E entitled Disciplinary Sanctions, page 1, section entitled Policy addresses 115.278(b). Page 2, section B(1-5) also addresses 115.278(b).

The Director asserts Transitional clients are subject to Colorado Department of Corrections (CDOC) administrative disciplinary procedures and review. In terms of removal from the program, the same is accomplished pursuant to separate administrative action. In the event of a criminal finding, CDOC staff facilitate the administrative hearing and removal would be the sanction.

The sanctions are proportionate to the nature and circumstances of the abuses committed, the clients' disciplinary histories, and the sanctions imposed for similar offenses on other clients with similar histories. The

PC generally facilitates the hearings. Finally, mental disability/illness are considered when determining sanctions.

CJSD Policy 1.3120E entitled Disciplinary Sanctions, page 2, section B(2) addresses 115.278(c).

Pursuant to the PAQ, the Director self reports the facility offers therapy, counseling, or other interventions designed to address and correct the underlying reasons or motivations for abuse. As previously stipulated, mental health services are minimally available at CJSD.

In view of the above, facility staff consider whether to require the offending resident to participate in such interventions as a condition of access to programming or other benefits.

The PC advises there has been no such cases applicable to 115.278(d) during the last 24 months.

Pursuant to the PAQ, the Director self reports the agency disciplines clients for sexual conduct with staff only upon finding that the staff member did not consent to such contact.

The auditor has not been provided any policy documentation wherein discipline of a client for sexual contact with staff can only occur based upon a finding that the staff member did not consent to such contact. Accordingly, the auditor finds CJSD non-compliant with 115.278(e). The auditor imposes a 180-day corrective action period in which insertion of this provision into policy will be accomplished and the provision will be institutionalized.

To complete corrective action, the PC will provide to the auditor a copy of the amended policy bearing the language of 115.278(e). The PC will also ensure relevant stakeholders are properly trained regarding this provision and accordingly, the PC will provide to the auditor a copy of the Training Agenda bearing attendee signatures/dates and the "I understand" caveat. A copy of the relevant lesson plan will also be provided.

The completion date for this corrective action is established as September 13, 2019.

The PC asserts no instances have arisen within the last 24 months wherein a client(s) have been disciplined for sexual contact with staff.

Pursuant to the PAQ, the Director self reports the agency prohibits disciplinary action for a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred, even if an investigation does not establish evidence sufficient to substantiate the allegation.

CJSD Policy 4.020 entitled PREA: Reporting, Intervention, and Monitoring, page 5, section D addresses 115.278(f).

Pursuant to the PAQ, the Director self reports the agency prohibits all sexual activity between clients. The Director further self reports the agency deems such activity to constitute sexual abuse only if it determines that the activity is coerced.

The auditor has not been provided any policy documentation stipulating whether all sexual activity between clients is prohibited and therefore, subject to disciplinary action. Disciplinary action may not be imposed unless it is determined the activity was coerced. Accordingly, the auditor finds CJSD non-compliant with 115.278(g). The auditor imposes a 180-day corrective action period in which insertion of this provision into policy will be accomplished and the provision will be institutionalized.

To complete corrective action, the PC will provide to the auditor a copy of the amended policy bearing the language of 115.278(g). The PC will also ensure relevant stakeholders are properly trained regarding this provision. Accordingly, the PC will provide to the auditor a copy of the Training Agenda bearing attendee signatures/dates and the "I understand" caveat. A copy of the relevant lesson plan will also be provided.

The completion date for this corrective action is established as September 13, 2019.

**September 17, 2019 Update:**

The auditor's review of amended CJSD Policy 4.020 entitled PREA Reporting, Intervention, and Monitoring, page 5, section D(2) and (3) addresses the findings articulated in the narratives for 115.278(e) and (g), reflected above.

The auditor's review of Training Agenda documents dated July 31, 2019 and August 28, 2019 reveals 46 staff were trained regarding the above subject-matter. The document reflects staff understand the subject-matter presented during the training and attendees signed for their participation in the same.

The auditor now finds CJSD compliant with 115.278(e) and (g).

The PC advises no such incidents [germane to the requirements articulated in 115.278(g)] have occurred during the last 24 months.

In view of the above, the auditor finds CJSD non-compliant with 115.278.

## MEDICAL AND MENTAL CARE

### Standard 115.282: Access to emergency medical and mental health services

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

##### 115.282 (a)

- Do resident 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?  
X  Yes  No

##### 115.282 (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 § 115.262?  Yes  No
- Do security staff first responders immediately notify the appropriate medical and mental health practitioners? X  Yes  No

##### 115.282 (c)

- Are resident 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? X  Yes  No

##### 115.282 (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?  
X  Yes  No

### **Auditor Overall Compliance Determination**

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

Pursuant to the PAQ, the Director self reports client victims of sexual abuse receive timely, unimpeded access to emergency medical treatment and crisis intervention services. The Director further self reports the nature and scope of such services are determined by community medical and mental health practitioners according to their professional judgment. The Director self reports medical and mental health care staff do not maintain secondary materials documenting the timeliness of emergency medical treatment and crisis intervention services that were provided; the appropriate response by non-health staff in the event health staff are not present at the time the incident is reported; and the provision of appropriate and timely information and services concerning contraception and sexually transmitted infection prophylaxis.

CJSD Policy 4.025 entitled PREA Victim Services, page 1, section entitled Policy addresses 115.282(a).

An explanation of duties associated with the the two part-time nurses is articulated in the narrative for 115.235 (a). Accordingly, the medical/mental health staff interviews were not conducted.

When questioned as to whether he had a chance to see a medical or mental health doctor/nurse in a timely fashion after reporting the abuse, the client who reported a sexual abuse interviewee asserts the same was offered to him however, he refused.

As referenced above, contact with the CJSD part-time nurses is not applicable as, pursuant to Position Description, they do not provide direct care to clients. Accordingly, they are not part of the sexual abuse response.

Five of 12 random staff interviewees assert the first step in terms of uniform evidence preservation is separation of the victim and perpetrator and 11 of the 12 interviewees assert securing the crime scene is the second step. One of the 12 interviewees asserts the third step involves requesting the victim not destroy physical evidence. None of the 12 interviewees assert the fourth step involves ensuring the perpetrator does not destroy physical evidence.

The auditor notes CJSD Policy 4.030 entitled PREA Investigation Requirements, page 2, section A(2)(a-e) is inaccurate in that "ENSURING the Abuser does not destroy physical evidence" is not scripted. It is also noted some of the checklists are inaccurate as they reflect both the victim and abuser will be instructed to refrain from destroying physical evidence. This applies to First Responder duties. Additionally, as reflected above, random staff interviewees presented need for training in regard to this subject-matter.

CJSD Policy 4.030 entitled PREA Investigation Requirements, page 2, section A(2)(a-d) addresses 115.264(a). This policy stipulates if the alleged incident occurred within a time frame that allows for the collection of physical evidence, request the abuser not take any actions that may destroy physical evidence as articulated above.

The auditor notes the standard requires staff ensure the alleged abuser not take any actions that could destroy physical evidence. Pursuant to the auditor's review of the report for the last PREA audit, he finds the same requires insertion of the caveat into policy stipulating staff request the abuser not take any actions that may destroy physical evidence. Accordingly, the auditor has determined there is no finding regarding this policy and training error.

While the auditor does not find CJSD non-compliant with 115.221(a), the auditor is imposing a 180-day corrective action period wherein the afore-mentioned policy and form mentioned in the narrative for 115.265(a) will be amended. Corrective actions steps are scripted in the narrative for 115.221(a) and 115.265(a).

Pursuant to the PAQ, the Director self reports client victims of sexual abuse while incarcerated are 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. As previously indicated, medical and mental health secondary materials are not maintained at CJSD as direct care is provided in the community.

As previously indicated, the client who reported a sexual abuse interviewee declined medical intervention following his report of sexual abuse.

Pursuant to the PAQ, the Director self reports treatment services are provided to every victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.

CJSD Policy 4.025 entitled PREA Victim Services, page 2, section C and D addresses 115.282(d).

In view of the above, the auditor finds CJSD substantially compliant with 115.282.

## **Standard 115.283: 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**

#### **115.283 (a)**

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

#### **115.283 (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? X  Yes  No

#### **115.283 (c)**

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

#### **115.283 (d)**

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

#### 115.283 (e)

- If pregnancy results from the conduct described in paragraph § 115.283(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.) X  Yes  No  NA

#### 115.283 (f)

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

#### 115.283 (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? X  Yes  No

#### 115.283 (h)

- Does the facility attempt to conduct a mental health evaluation of all known resident-on-resident abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate by mental health practitioners? X  Yes  No

#### Auditor Overall Compliance Determination

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

Pursuant to the PAQ, the Director self reports the facility offers medical and mental health evaluation and, as appropriate, treatment to all clients who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility.

The auditor has not been provided any policy documentation addressing the subject-matter of 115.283(a), (d), (e), (f), (g), and (h). Accordingly, the auditor finds CJSD non-compliant with these provisions. The auditor imposes a 180-day corrective action period in which insertion of these provisions into policy will be accomplished and the provisions will be institutionalized.

To complete corrective action, the PC will provide to the auditor a copy of the amended policy(ies) bearing the language of the afore-mentioned provisions. The PC will also ensure relevant stakeholders are properly trained regarding these provisions. Accordingly, the PC will provide to the auditor a copy of the Training Agenda(s) bearing attendee signatures/dates and the "I understand" caveat. A copy of the relevant lesson plan will also be provided.

The completion date for this corrective action is established as September 13, 2019.

**September 18, 2019 Update:**

**The auditor's review of the amended CJSD Policy 4.025 entitled Victim Services, pages 1-3, sections entitled Policy, sections C-F, and section I address the verbiage articulated in 115.283(a), (d), (e), (f), (g), and (h). Requisite policy development has been completed.**

**The auditor's review of Training Agenda documents dated July 31, 2019 and August 28, 2019 reveals 46 staff were trained regarding the above subject-matter. The document reflects staff understand the subject-matter presented during the training and attendees signed for their participation in the same.**

**The auditor now finds CJSD compliant with 115.283(a), (d), (e), (f), (g), and (h).**

It is noted that although the part-time nurses provide no direct patient care at CJSD, case managers, the PC, managers, etc. play a role in the assurance that standard steps are completed. Accordingly, any policy will script assignments.

The PC advises, during the last 24 months, one client reported during intake or subsequent to intake, sexual victimization in a prison, jail, lockup, or juvenile facility. The auditor has not been provided any documentation validating an offer of medical/mental health evaluation and treatment.

The auditor interviewed two clients who disclosed sexual victimization during risk assessment and they advised they were offered a meeting with community medical or mental health care staff however, both declined the same.

The client who reported a sexual abuse interviewee asserts he declined medical services following his report of sexual abuse/harassment. With respect to the client interviewees who reported sexual victimization during screening, their involvement with the requirements of 115.283(b) are addressed in the narrative for 115.283(a).

As direct medical care is provided in the surrounding community, the intent of such provision is met. Based on conversation with the PC, she is the primary link to provision of requisite services in the surrounding community.

Pursuant to the PAQ, the Director self reports female victims of sexually abusive vaginal penetration while incarcerated are offered pregnancy tests.

The client who reported a sexual abuse interviewee is a male and accordingly, neither a pregnancy test or pregnancy related information was offered to him following report. Additionally, he declined medical intervention.

The PC reports no vaginal penetration cases occurred during the audit period.

Pursuant to the PAQ, the Director self reports if pregnancy results from sexually abusive vaginal penetration, such victims shall receive timely and comprehensive information about and timely access to all lawful pregnancy-related medical services.

The PC advises no incidents of pregnancy have arisen during the last 24 months as the result of vaginal penetration.

Pursuant to the PAQ, the Director self reports client victims of sexual abuse while incarcerated are offered tests for sexually transmitted infections as medically appropriate.



The PC asserts no cases of sexual abuse have occurred during the last 24 months. As mentioned throughout this report, incidents of sexual misconduct have occurred however, nothing has risen to the level of sexual assault.

The resident who reported a sexual abuse interviewee declined medical intervention and accordingly, tests for sexually transmitted infections are not applicable. Additionally, the fact pattern of his case is not synonymous with sexual assault.

Pursuant to the PAQ, the Director self reports 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.

Pursuant to the PAQ, the Director self reports the facility attempts to conduct a mental health evaluation of all known client-on-client abusers within 60 days of learning of such abuse history, and offers treatment when deemed appropriate by mental health practitioners.

The PC asserts no client-on-client sexual abusers have been received at CJSD within the last 24 months.

In view of the above, the auditor finds CJSD compliant with 115.283.

## DATA COLLECTION AND REVIEW

### Standard 115.286: Sexual abuse incident reviews

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

##### 115.286 (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? X  Yes  No

##### 115.286 (b)

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

##### 115.286 (c)

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

##### 115.286 (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? X  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? X  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? X  Yes  No
- Does the review team: Assess the adequacy of staffing levels in that area during different shifts? X  Yes  No
- Does the review team: Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff? X  Yes  No
- Does the review team: Prepare a report of its findings, including but not necessarily limited to determinations made pursuant to §§ 115.286(d)(1) - (d)(5), and any recommendations for improvement and submit such report to the facility head and PREA compliance manager? X  Yes  No

### 115.286 (e)

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

### Auditor Overall Compliance Determination

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

Pursuant to the PAQ, the Director self reports the facility conducts a sexual abuse incident review at the conclusion of every criminal or administrative sexual abuse investigation, unless the allegation has been determined to be unfounded. The Director further self reports in the past 12 months, four criminal or administrative sexual abuse/sexual misconduct investigations (either substantiated or unsubstantiated) were facilitated at CJSD. Pursuant to the auditor's review, one of those investigations is more accurately classified as Sexual Harassment and another is very marginally considered sexual assault. However, for purposes of this review, the auditor will consider three of the investigations as sexual abuse/misconduct.

CJSD Policy 4.030 entitled PREA Investigation Requirements, page 3, section B addresses 115.286(a).

The auditor's review of the three 2018 Sexual Abuse Response Team (SART) reports reveals timely conduct of the SART reviews in two of the three cases. The auditor notes the SART reports are thorough, and detailed however, there is no indication as to whether facility staffing was assessed (during different shifts) in the area wherein the alleged incident occurred and the date on which the SART was conducted. Additionally, the auditor notes the composition of the SART team is not mentioned in the PREA Incident Debriefing Report. The auditor has been provided no additional evidence clarifying the above findings.

In view of the above, the auditor finds CJSD non-compliant with 115.286(c) and (d). Accordingly, the auditor imposes a 180-day corrective action period in which CJSD will demonstrate substantial compliance with 115.286(c) and (d).

To achieve compliance, the auditor recommends amendment of the PREA Incident Debriefing Report to reflect names and titles of SART participants, a caveat stipulating the assessment as to the adequacy of staffing levels in the area wherein the incident occurred (during different shifts), and the date on which the

SART was facilitated. Once amended, the PC will forward a copy of the document to the auditor for review and retention in the audit file. Additionally, the PC will train all relevant stakeholders regarding the amended document, providing the auditor with substantiating training evidence reflecting the participant's printed name/signature/and the "I understand" caveat. The auditor will retain the same in the audit file. The PC will also forward to the auditor copies of any sexual assault/misconduct investigations and accompanying PREA Incident Debriefing Reports for review and assessment for provision closure. Such documentation applies to incidents occurring subsequent to the date of the on-site review until the established corrective action completion date. The corrective action completion date is September 13, 2019.

**September 18, 2019 Update:**

**The auditor's review of the amended PREA Incident Debriefing Report (SART report) reveals substantial compliance with 115.286. The corrective action identified above has been completed. It appears the amended form was completed on or about July 19, 2019.**

**As previously mentioned, the PC provided the auditor with one investigation, completed subsequent to the CJSD on-site audit. The PREA Incident Debriefing was conducted subsequent to completion of an Unfounded sexual abuse investigation. The Debriefing was completed on July 3, 2019, prior to implementation of the new form and accordingly, the new form was not utilized. Furthermore, 115.286 does not require the conduct of a SART following an Unfounded sexual abuse investigation.**

**The auditor's review of Training Agenda documents dated July 31, 2019 and August 28, 2019 reveals 46 staff were trained regarding the above subject-matter. The document reflects staff understand the subject-matter presented during the training and attendees signed for their participation in the same.**

**The auditor now finds CJSD compliant with 115.286(c) and (d).**

Pursuant to the PAQ, the Director self reports the facility ordinarily conducts a sexual abuse incident review within 30 days of the conclusion of the criminal or administrative sexual abuse investigation. The Director further self reports in the past 12 months, four criminal or administrative sexual abuse/sexual misconduct investigations (either substantiated or unsubstantiated) were facilitated at CJSD. Pursuant to the auditor's review, one of those investigations is more accurately classified as Sexual Harassment and another is very marginally considered sexual assault. However, for purposes of this review, the auditor will consider three of the investigations as sexual abuse/misconduct.

CJSD Policy 4.030 entitled PREA Investigation Requirements, page 3, section B(2)(a) addresses 115.286(b).

Pursuant to the PAQ, the Director self reports the sexual abuse incident review team includes upper-level management officials and allows for input from line supervisors, investigators, and medical or mental health practitioners. The auditor notes no mental health staff are employed at CJSD.

CJSD Policy 4.030 entitled PREA Investigation Requirements, page 3, section B(1)(a-d) addresses 115.286(c).

The Director asserts CJSD has a sexual abuse incident review team. The team includes upper-level management officials and allows for input from line supervisors and investigators.

Pursuant to the PAQ, the Director self reports the facility prepares a report of its findings from sexual abuse incident reviews, including but not necessarily limited to, determinations made pursuant to paragraphs (d)(1)-(d)(5) of this provision and any recommendations for improvement, and submits such report to the facility head and PREA Coordinator.

The Director asserts the SART evaluates red flags associated with each case. Staffing needs, camera placements, and realignment of resources are considered in an attempt to strengthen the programs.

The SART team considers and/or reviews the following:

1. Considers whether the incident or allegation was motivated by race, ethnicity, gender identity, LGBTI status or perceived status, or gang affiliation;
2. Examines the area in the facility where the incidents allegedly occurred to assess whether physical barriers in the area may enable abuse;
3. Assesses the accuracy of staffing levels in the area during different shifts;
4. Assesses whether monitoring technology should be deployed or augmented to supplement supervision by staff.

The PC asserts the SART conducts sexual abuse incident reviews and prepares a report of its findings from the reviews, including any determinations and recommendations for improvement. She generates the report. The only common threads identified between the two SART reviews are the location (in room) and nature of behaviors. Once the report has been submitted, the PC facilitates Town Hall meetings with both clients and staff. She addresses the specifics with staff/client stakeholders. Corrective action is generally implemented.

The incident review team interviewee corroborates the statement of the Director.

Pursuant to the PAQ, the Director self reports the facility implements the recommendations for improvement or documents its reasons for not doing so.

In view of the above, the auditor finds CJSD substantially compliant with 115.286.

## Standard 115.287: Data collection

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

#### 115.287 (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? X  Yes  No

#### 115.287 (b)

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

#### 115.287 (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? X  Yes  No

#### 115.287 (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?  
X  Yes  No

#### 115.287 (e)

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

#### 115.287 (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.)  
X  Yes  No  NA

#### Auditor Overall Compliance Determination

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

Pursuant to the PAQ, the Director self reports the agency collects accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions. The Director further self reports the standardized instrument includes, 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.

CJSD Policy 4.040 entitled PREA: Staffing, Monitoring, and Date, page 2, section D(1) and (2) addresses 115.287(a/c).

Pursuant to the PAQ, the Director self reports the agency aggregates the incident-based sexual abuse data at least annually.

The auditor's review of the 2015/2016, and 2016/2017, and 2017/2018 annual reports reveals sexual abuse/harassment data is aggregated on a continuing basis.

Pursuant to the PAQ, the Director self reports the agency maintains, reviews, and collects data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews.

CJSD Policy 4.040 entitled PREA: Staffing, Monitoring, and Date, page 2, section D(3)(a-f) addresses 115.287(d).

The auditor's review of a sampling of the data collected and maintained confirms compliance with 115.287(d).

Pursuant to the PAQ, the Director self reports CJSD does not contract with any other facility(ies) for confinement of its clients. In view of the above and the auditor's findings regarding CJSD and contract facilities, the auditor finds 115.287(e) not-applicable to CJSD.

According to the Director, CJSD provided sexual abuse/sexual harassment data to the U.S. Department of Justice during 2017.

The auditor's review of the 2016 SSV reveals a complete and consistent document as compared to the 2015/2016 Annual Report. The SSV is comprehensive, addressing all relevant information and findings. In view of the above, the auditor finds CJSD substantially compliant with 115.287.

## Standard 115.288: Data review for corrective action

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

#### 115.288 (a)

- Does the agency review data collected and aggregated pursuant to § 115.287 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 § 115.287 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 § 115.287 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

#### 115.288 (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

#### 115.288 (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

#### 115.288 (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*)

Pursuant to the PAQ, the Director self reports the agency reviews data collected and aggregated pursuant to 115.287, in order to assess and improve the effectiveness of its sexual abuse, prevention, detection, and response policies and training including:

Identifying problem areas;

Taking corrective action on an ongoing basis; and

Preparing an annual report of its findings from its data review and corrective actions for each facility, as well as, the agency as a whole.

The Agency Head/Director asserts incident-based sexual abuse data is used to assess and improve sexual abuse prevention, detection, and response policies, practices, and training. Location(s) of incident(s) are tracked by data entry, as well as, types of offenses and commonality of offenses. Male vs. female incidents are also tracked. Resources are allocated based on trends and observations.

The PC asserts the agency prepares an annual report of findings from its data review and any corrective actions for each facility, as well as, the agency as a whole.

In a separate conversation, the PC asserts SART corrective actions and the steps taken to implement the same, as well as, the findings of the annual facility tour and corrective actions taken, are not addressed in the annual reports. Accordingly, the auditor finds CJSD non-compliant with 115.288(a). Additionally, she asserts the Director signs the SART reports however, he does not sign the annual report. Finally, the PC asserts the perpetual reports do not address corrective actions taken year to year, providing an annual assessment of the agency's progress in addressing sexual abuse.

In view of the above, the auditor finds CJSD non-compliant with 115.288(a), (b), and (c) and is imposing a 180-day corrective action period during which CJSD staff will ensure agency compliance with the aforementioned provisions. The PC asserts the 2018/2019 annual report has not been completed as of this date.

Accordingly, corrective action will be accomplished through articulation of SART findings/recommendations/and recommendations implemented in the annual report, comparing the positive impact of the same on the overall sexual safety of clients. This will provide a synopsis of year to year agency progress in addressing client sexual safety. An analysis of demographics related to sexual abuse/misconduct/harassment will likewise capture gains realized. Finally, the PC will add a signature line and date for both the Director and PC, signifying his review and approval of the report.

The completion date for this corrective action is September 13, 2019. The PC will provide a copy of the 2018/2019 annual report to the auditor for review prior to inclusion of the same on the CJSD website.

#### **September 18, 2019 Update:**

**The auditor's review of the CJSD Annual PREA Report dated June 18, 2019 reveals substantial improvement in comparison to the corrective action articulated above. The same now incorporates the requirements of 115.288(a), (b), and (c).**

**In view of the above, the auditor now finds CJSD compliant with 115.288(a), (b), and (c).**

Pursuant to the PAQ, the Director self reports the annual report includes a comparison of the current year's data and corrective actions with those from prior years. The Director further self reports the annual report provides an assessment of the agency's progress in addressing sexual abuse.

Pursuant to the PAQ, the Director self reports the agency makes its annual report readily available to the public at least annually through its website and the annual reports are approved by the agency head.

The auditor's review of the CJSD website reveals the annual report (one covering 2017/2018) is available on the same.

Pursuant to the PAQ, the Director self reports when the agency redacts material from an annual report for publication, the redactions are limited to specific materials where publication would present a clear and specific threat to the safety and security of the facility. Furthermore, the agency indicates the nature of the material redacted.

The PC asserts names are typically redacted from annual reports. She reports no annual report redactions during this audit period.

In view of the above, the auditor finds CJSD substantially compliant with 115.288.

## Standard 115.289: Data storage, publication, and destruction

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

#### 115.289 (a)

- Does the agency ensure that data collected pursuant to § 115.287 are securely retained?  
 Yes  No

#### 115.289 (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

#### 115.289 (c)

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

#### 115.289 (d)

- Does the agency maintain sexual abuse data collected pursuant to § 115.287 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*)



Pursuant to the PAQ, the Director self reports the agency ensures incident-based and aggregated data are securely retained.

The PC asserts CJSD does review data collected and aggregated pursuant to 115.287 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, response policies, and training. Information from SART reviews, investigation findings, and demographics are considered. Data is secured in a locked file cabinet in the PC's Office. The file cabinet is locked when she is not in the office. CJSD does implement corrective action on an ongoing basis based on these data.

Based upon auditor observation, CJSD is compliant with 115.289(a) as observation corroborates the statement of the PC.

Pursuant to the PAQ, the Director self reports agency policy requires that aggregated sexual abuse data from facilities under its direct control and private facilities with which it contracts be made readily available to the public, at least annually, through its website.

CJSD Policy 4.040 entitled PREA: Staffing, Monitoring, and Date, page 3, section D(6)(b) addresses 115.289(b).

The auditor's review of the CJSD website reveals aggregated sexual abuse data is available on an annual basis.

Pursuant to the PAQ, the Director self reports before making aggregated sexual abuse data publicly available, the agency removes all personal identifiers.

CJSD Policy 4.040 entitled PREA: Staffing, Monitoring, and Date, page 3, section D(8) addresses 115.289(c).

Pursuant to the PAQ, the Director self reports the agency maintains sexual abuse data collected pursuant to 115.287 for at least 10 years after the date of initial collection, unless federal, state, or local law requires otherwise.

CJSD Policy 4.040 entitled PREA: Staffing, Monitoring, and Date, page 3, section D(9) addresses 115.289(d).

During the on-site audit, the auditor found no deviations from 115.289.

In view of the above, the auditor finds CJSD substantially compliant with 115.289.

## AUDITING AND CORRECTIVE ACTION

### Standard 115.401: Frequency and scope of audits

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

##### 115.401 (a)

- During the prior three-year audit period, did the agency ensure that each facility operated by the agency, or by a private organization on behalf of the agency, was audited at least once? (*Note: The response here is purely informational. A "no" response does not impact overall compliance with this standard.*) X  Yes  No

#### 115.401 (b)

- Is this the first year of the current audit cycle? (Note: a “no” response does not impact overall compliance with this standard.)  Yes  No
- If this is the second year of the current audit cycle, did the agency ensure that at least one-third of each facility type operated by the agency, or by a private organization on behalf of the agency, was audited during the first year of the current audit cycle? (N/A if this is **not** the *second* year of the current audit cycle.)  Yes  No  NA
- If this is the third year of the current audit cycle, did the agency ensure that at least two-thirds of each facility type operated by the agency, or by a private organization on behalf of the agency, were audited during the first two years of the current audit cycle? (N/A if this is **not** the *third* year of the current audit cycle.)  Yes  No  NA

#### 115.401 (h)

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

#### 115.401 (i)

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

#### 115.401 (m)

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

#### 115.401 (n)

- Were residents 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*)

With some exceptions, the auditor was permitted to request and receive copies of relevant documents, inclusive of electronically stored information. However, as reflected in the narrative for 115.217, staff criminal background record checks and other staff information was not provided, despite requests for the same. This extended to the on-site audit phase. The auditor notes there is no apparent contractual basis for the refusal to provide the requested validation information rather, legal and other Privacy issues were cited as the basis. Accordingly, validation of standards compliance could not be established with regard to some standards.

Instances wherein the above condition pervades are mentioned within the report narrative.

September 17, 2019 Update:

As mentioned in the narrative for 115.217, the auditor learned, pursuant to contact with the PREA Resource Center, that the evidence provided by the CJSD Director and PC is acceptable with respect to staff criminal background record checks and 5-year reinvestigations. Accordingly, the individual narratives have been corrected and likewise, the auditor is correcting the above.

CJSD were facilitative with the information gathering and validation processes throughout the audit process.

## 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.) X  Yes  No  NA

### Auditor Overall Compliance Determination

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

No commentary.

## 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 resident or staff member, except where the names of administrative personnel are specifically requested in the report template.

### Auditor Instructions:

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

K.E. Arnold

September 26, 2019

**Auditor Signature**

**Date**

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

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