

**Disclaimer:** This report, as required per 28 CFR §115.403, details the findings of an audit that was conducted by an outside contractor to determine the Federal Bureau of Prisons' (BOP) compliance with the Prison Rape Elimination Act (PREA). As the work product of independent auditors subcontracted by [PREA Auditors of America \(PAOA\)](#), the BOP is **not** responsible for grammatical or typographical errors. Additionally, any questions or comments regarding the discrepancies or inaccuracies found within this report should be directed to PAOA at [\(713\) 818-9098](#), or to the subcontracted independent auditor (name and email address can be found on page one of the report), for explanation and resolution.

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

Interim       Final

Date of Report    June 10, 2021

### Auditor Information

Name: Elisabeth Copeland	Email: Lisa@preaauditing.com
Company Name: PREA Auditors of America, LLC	
Mailing Address: P. O. Box 1071	City, State, Zip: Cypress, TX 77410
Telephone: (713) 818-9098	Date of Facility Visit: May 18 – 20, 2021

### Agency Information

Name of Agency:		Governing Authority or Parent Agency (If Applicable):	
Federal Bureau of Prisons		U. S. Department of Justice	
Physical Address: 320 First Street, NW		City, State, Zip: Washington, DC 20534	
Mailing Address: same as above		City, State, Zip: same as above	
The Agency Is:	<input type="checkbox"/> Military	<input type="checkbox"/> Private for Profit	<input type="checkbox"/> Private not for Profit
<input type="checkbox"/> Municipal	<input type="checkbox"/> County	<input type="checkbox"/> State	<input checked="" type="checkbox"/> Federal
Agency Website with PREA Information: 0			

### Agency Chief Executive Officer

Name: M. D. Carvajal, Director	
Email: BOP-RSD-PREACoordinator@bop.gov	Telephone: 202-616-2112

### Agency-Wide PREA Coordinator

Name: Jill Roth, National PREA Coordinator	
Email: BOP-RSD-PREACoordinator@BOP.GOV	Telephone: 202-616-2112
PREA Coordinator Reports to:  Sonya Thompson, Assistant Director, Reentry Services Division	Number of Compliance Managers who report to the PREA Coordinator  0

## Facility Information

**Name of Facility:** FCI Herlong

**Physical Address:** 741-925 Herlong Access Road A-25

**City, State, Zip:** Herlong, CA 96113

**Mailing Address (if different from above):**

P. O. Box 900

**City, State, Zip:** Herlong, CA 96113

**The Facility Is:**

Military

Private for Profit

Private not for Profit

Municipal

County

State

Federal

**Facility Type:**

Prison

Jail

**Facility Website with PREA Information:** [https://www.bop.gov/inmates/custody\\_and\\_care/sexual\\_abuse\\_prevention.jsp](https://www.bop.gov/inmates/custody_and_care/sexual_abuse_prevention.jsp)

**Has the facility been accredited within the past 3 years?**  Yes  No

**If the facility has been accredited within the past 3 years, select the accrediting organization(s) – select all that apply (N/A if the facility has not been accredited within the past 3 years):**

ACA

NCCHC

CALEA

Other (please name or describe:

N/A

**If the facility has completed any internal or external audits other than those that resulted in accreditation, please describe:**

### Warden/Jail Administrator/Sheriff/Director

**Name:** Paul Thompson

**Email:** HER-PREAComplianceMgr-S@bop.gov

**Telephone:** 530-827-8000

### Facility PREA Compliance Manager

**Name:** Kelvin Brown, Associate Warden

**Email:** HER-PREAComplianceMgr-S@bop.gov

**Telephone:** 530-827-8000

**Facility Health Service Administrator**  N/A

**Name:** Jarrett Tuttle

**Email:** HER-PREAComplianceMgr-S@bop.gov

**Telephone:** 530-827-8000

## Facility Characteristics

Designated Facility Capacity:	920	
Current Population of Facility:	974	
Average daily population for the past 12 months:	997	
Has the facility been over capacity at any point in the past 12 months?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Which population(s) does the facility hold?	<input type="checkbox"/> Females <input checked="" type="checkbox"/> Males <input type="checkbox"/> Both Females and Males	
Age range of population:	21 - 75	
Average length of stay or time under supervision:	528.5 Days at FCI, 477.6 Days at Camp	
Facility security levels/inmate custody levels:	Medium and Minimum/In, Out, Community	
Number of inmates admitted to facility during the past 12 months:	377	
Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 72 hours or more:	377	
Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 30 days or more:	377	
Does the facility hold youthful inmates?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Number of youthful inmates held in the facility during the past 12 months: (N/A if the facility never holds youthful inmates)	Click or tap here to enter text. <input checked="" type="checkbox"/> N/A	
Does the audited facility hold inmates for one or more other agencies (e.g. a State correctional agency, U.S. Marshals Service, Bureau of Prisons, U.S. Immigration and Customs Enforcement)?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
<p><b>Select all other agencies for which the audited facility holds inmates: Select all that apply (N/A if the audited facility does not hold inmates for any other agency or agencies):</b></p>	<input type="checkbox"/> Federal Bureau of Prisons <input type="checkbox"/> U.S. Marshals Service <input type="checkbox"/> U.S. Immigration and Customs Enforcement <input type="checkbox"/> Bureau of Indian Affairs <input type="checkbox"/> U.S. Military branch <input type="checkbox"/> State or Territorial correctional agency <input type="checkbox"/> County correctional or detention agency <input type="checkbox"/> Judicial district correctional or detention facility <input type="checkbox"/> City or municipal correctional or detention facility (e.g. police lockup or city jail) <input type="checkbox"/> Private corrections or detention provider <input type="checkbox"/> Other - please name or describe: <a href="#">Click or tap here to enter text.</a> <input type="checkbox"/> N/A	
Number of staff currently employed by the facility who may have contact with inmates:	259	

Number of staff hired by the facility during the past 12 months who may have contact with inmates:	29
Number of contracts in the past 12 months for services with contractors who may have contact with inmates:	5
Number of individual contractors who have contact with inmates, currently authorized to enter the facility:	1
Number of volunteers who have contact with inmates, currently authorized to enter the facility:	0
<b>Physical Plant</b>	
<p><b>Number of buildings:</b></p> <p>Auditors should count all buildings that are part of the facility, whether inmates are formally allowed to enter them or not. In situations where temporary structures have been erected (e.g., tents) the auditor should use their discretion to determine whether to include the structure in the overall count of buildings. As a general rule, if a temporary structure is regularly or routinely used to hold or house inmates, or if the temporary structure is used to house or support operational functions for more than a short period of time (e.g., an emergency situation), it should be included in the overall count of buildings.</p>	25
<p><b>Number of inmate housing units:</b></p> <p>Enter 0 if the facility does not have discrete housing units. DOJ PREA Working Group FAQ on the definition of a housing unit: How is a "housing unit" defined for the purposes of the PREA Standards? The question has been raised in particular as it relates to facilities that have adjacent or interconnected units. The most common concept of a housing unit is architectural. The generally agreed-upon definition is a space that is enclosed by physical barriers accessed through one or more doors of various types, including commercial-grade swing doors, steel sliding doors, interlocking sally port doors, etc. In addition to the primary entrance and exit, additional doors are often included to meet life safety codes. The unit contains sleeping space, sanitary facilities (including toilets, lavatories, and showers), and a dayroom or leisure space in differing configurations. Many facilities are designed with modules or pods clustered around a control room. This multiple-pod design provides the facility with certain staff efficiencies and economies of scale. At the same time, the design affords the flexibility to separately house inmates of differing security levels, or who are grouped by some other operational or service scheme. Generally, the control room is enclosed by security glass, and in some cases, this allows inmates to see into neighboring pods. However, observation from one unit to another is usually limited by angled site lines. In some cases, the facility has prevented this entirely by installing one-way glass. Both the architectural design and functional use of these multiple pods indicate that they are managed as distinct housing units.</p>	14
Number of single cell housing units:	0
Number of multiple occupancy cell housing units:	13
Number of open bay/dorm housing units:	1
Number of segregation cells (for example, administrative, disciplinary, protective custody, etc.):	96
In housing units, does the facility maintain sight and sound separation between youthful inmates and adult inmates? (N/A if the facility never holds youthful inmates)	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
Does the facility have a video monitoring system, electronic surveillance system, or other monitoring technology (e.g. cameras, etc.)?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

Has the facility installed or updated a video monitoring system, electronic surveillance system, or other monitoring technology in the past 12 months?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
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**Medical and Mental Health Services and Forensic Medical Exams**

Are medical services provided on-site?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Are mental health services provided on-site?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Where are sexual assault forensic medical exams provided? Select all that apply.	<input type="checkbox"/> On-site <input checked="" type="checkbox"/> Local hospital/clinic <input type="checkbox"/> Rape Crisis Center <input type="checkbox"/> Other (please name or describe: <a href="#">Click or tap here to enter text.</a> )

**Investigations**

**Criminal Investigations**

Number of investigators employed by the agency and/or facility who are responsible for conducting CRIMINAL investigations into allegations of sexual abuse or sexual harassment:	0
When the facility received allegations of sexual abuse or sexual harassment (whether staff-on-inmate or inmate-on-inmate), CRIMINAL INVESTIGATIONS are conducted by: Select all that apply.	<input type="checkbox"/> Facility investigators <input type="checkbox"/> Agency investigators <input checked="" type="checkbox"/> An external investigative entity
Select all external entities responsible for CRIMINAL INVESTIGATIONS: Select all that apply (N/A if no external entities are responsible for criminal investigations)	<input type="checkbox"/> Local police department <input type="checkbox"/> Local sheriff's department <input type="checkbox"/> State police <input checked="" type="checkbox"/> A U.S. Department of Justice component <input type="checkbox"/> Other (please name or describe: <input type="checkbox"/> N/A

**Administrative Investigations**

Number of investigators employed by the agency and/or facility who are responsible for conducting ADMINISTRATIVE investigations into allegations of sexual abuse or sexual harassment?	253
When the facility receives allegations of sexual abuse or sexual harassment (whether staff-on-inmate or inmate-on-inmate), ADMINISTRATIVE INVESTIGATIONS are conducted by: Select all that apply	<input checked="" type="checkbox"/> Facility investigators <input checked="" type="checkbox"/> Agency investigators <input type="checkbox"/> An external investigative entity
Select all external entities responsible for ADMINISTRATIVE INVESTIGATIONS: Select all that apply (N/A if no external entities are responsible for administrative investigations)	<input type="checkbox"/> Local police department <input type="checkbox"/> Local sheriff's department <input type="checkbox"/> State police <input type="checkbox"/> A U.S. Department of Justice component <input type="checkbox"/> Other (please name or describe:) <input checked="" type="checkbox"/> N/A

# Audit Findings

## Audit Narrative

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

### PRE-AUDIT

The Federal Bureau of Prisons (BOP) sent the Notice of Audit to Federal Correctional Institution (FCI) Herlong approximately six before the scheduled on-site PREA audit. Pictures were supplied to this Auditor demonstrating the notice was posted throughout the facility. Review of the pre-audit documentation began at this time.

### ON-SITE

The Auditor was greeted by the Regional PREA Coordinator and FCI Herlong executive staff. After the initial meeting and discussion of the audit process, a detailed tour was provided to the Auditor.

The Institution PREA Compliance Manager lead the on-site tour. The tour started at FCI's Facilities and moved onto Food Services then to the housing units. The tour also included Medical, Receiving & Discharge, Laundry, Commissary, Inside and Outside Recreation, Education, Psychology Services, Religious Services, and the Special Housing Unit. The Auditor was also given a tour of the Camp. At that time, the Auditor viewed the dorm, Food Services, Administration Building (includes Education, Medical and Unit offices) and Visitation. While at FCI and the Camp, the Auditor observed camera placement and appropriate barriers on all inmate restrooms.

While visiting the housing units at FCI and the Camp, the Auditor observed opposite gender staff announcements posted throughout. In addition, the Auditor observed the Notice of Audit postings as well as PREA reporting information in English and Spanish on bulletin boards.

Immediately after the tour, the PREA Compliance Manager provided the Auditor with staff rosters from all three shifts and provided a list of specialized staff. The Auditor then randomly selected staff from each shift, as well as established times to interview specialize staff.

The PREA Compliance Manager provided the Auditor with available housing unit rosters. In reviewing the housing rosters, the Auditor asked for information on inmates who meet the requirements for targeted protocols. At this time, the Auditor was advised only one transgender inmate was currently housed at FCI Herlong and only one inmate currently housed at the facility had reported sexual abuse. The Auditor was also advised additional specialized lists were not available. The Auditor then randomly selected inmates from each housing units for random inmate interviews in hopes of capturing additional targeted inmate interviews. A total of 30 inmates were selected to be interviewed.

FCI Herlong provided appropriate accommodations for the Auditor to conduct inmate and staff interviews. The Auditor was given access to staff files, inmate files and any documentation that was requested. Facility staff were great to work with and were very accommodating. The Regional PREA

Coordinator was readily available for any questions. Staff at FCI Herlong were extremely helpful and polite throughout the entire process and escorted the Auditor throughout the facility.

The Auditor selected a total of 30 inmates to interview that had various lengths of stay. In addition, the Auditor interviewed a total of 26 staff to include the following specialized staff: Agency Head, National PREA Coordinator, BOP Contract Manager, Warden, PREA Compliance Manager, Mental Health Staff, Medical Staff, Human Resource staff, Upper-Level Supervisors, Intake Staff, Staff who Perform Risk Screening, staff who Monitor Retaliation, members of the Sexual Abuse Incident Review team, and Investigators. The Auditor also interviewed random staff from all shifts.

Prior to the exit interview, the Auditor reviewed on-site documentation. There was an exit interview conducted at the end of the site visit.

## **POST-AUDIT**

After the on-site portion of the PREA audit, this Auditor reviewed the notes from the tour and all interviews conducted. This information was compared to the pre-audit documentation. Work on the final audit report began.

On June 10, 2021, the PREA audit report was submitted to the Regional PREA Coordinator for review.

## **Facility Characteristics**

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

The Federal Correctional Institution Herlong (FCI Herlong) is in Herlong, California. FCI Herlong consists of 25 buildings. Inmate housing, which consists of 13 housing units at FCI and one housing unit at the Satellite Camp. These housing units contain 13 multiple occupancy cells and one open bay/dorm style housing unit. FCI Herlong has 96 segregation cells.

FCI Herlong receives offenders sentenced to the Federal Bureau of Prisons (BOP).

FCI Herlong currently houses 999 adult male offenders. During the past 12 months 377 offenders have been admitted to this facility. The age range of the current population is 21 to 75 with security levels ranging from minimum to medium.

FCI Herlong has 259 employees who have contact with the offender population. In addition to its 259 employees, FCI Herlong has zero volunteers that are allowed to enter the facility due COVID-19 protocols and 1 contractor. There are 253 administrative investigators employed by BOP.

FCI Herlong is located within a secure perimeter. The facility has the official capacity to house 920 adult male inmates.

## **Summary of Audit Findings**

*The summary should include the number and list of standards exceeded, number of standards met, and number and list of standards not met.*

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

### **Standards Exceeded**

**Number of Standards Exceeded:** 0  
**List of Standards Exceeded:** NA

### **Standards Met**

**Number of Standards Met:** 45

### **Standards Not Met**

**Number of Standards Not Met:** 0  
**List of Standards Not Met:** NA

## PREVENTION PLANNING

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

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

#### 115.11 (a)

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

#### 115.11 (b)

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

#### 115.11 (c)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's*

*conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

a) The BOP has written policy mandating zero tolerance toward all forms of sexual abuse and sexual harassment in facilities it operates directly or under contract.

Zero tolerance is addressed in Program Statement (PS) 5324.12, Sexually Abusive Behavior Prevention and Intervention Program, dated June 4, 2015. This Program Statement outlines how BOP will implement the agency's approach to preventing, detecting, and responding to sexual abuse and sexual harassment. It also includes definitions of prohibited behaviors regarding sexual abuse and sexual harassment. In addition, this Program Statement includes description of BOP strategies and responses to reduce the risk of sexual abuse and sexual harassment of inmates.

BOP also has PS 3420.11, Standards of Employee Conduct, dated December 6, 2013, addresses personal conduct of its employees. This Program Statement covers sexual relationships and contact with inmates. It also outlines the types of administrative actions, up to and including removal, employees will be subject to if they violate the Program Statement.

Prohibited behaviors is also outlined in PS 5270.09, Inmate Discipline Program, dated July 8, 2011. The Program Statement addresses sanctions for inmates who are found guilty of sexual assault and lists engaging in sexual acts and making sexual proposals or threats to another as high severity level prohibited acts.

b) BOP employs an upper-level, agency-wide PREA Coordinator. The National PREA Coordinator (NPC) has sufficient time and authority to develop, implement, and oversee BOP efforts to comply with the PREA standards in all the facilities it directly operates. The NPC also coordinates with Privatization Management and Residential Reentry Management Branches to ensure contract facilities follow PREA Standard 115.11.

This language is found PS 5324.12. In addition, this Program Statement addresses the responsibilities of the Regional PREA Coordinators. These individuals ensure policy guidelines are addressed in each institution within their assigned region.

The National PREA Coordinator states, "There are 122 (PREA Compliance Managers), one per institution. I provide training to all new Associate Warden. Associate Wardens are typically assigned as PREA Compliance Managers. I also respond to PREA Compliance Managers' questions telephonically, via email, and in person on those occasions when I am at other institutions. In 2019, a 4-hour comprehensive PREA training was developed, and I have instructed it at multiple institutions. This is an ongoing training."

The National PREA Coordinator is listed in the BOP organizational structure. This position reports directly to the Assistant Director, Reentry Services Division. Currently there are zero PREA Compliance Managers who report to the National PREA Coordinator.

c) FCI Herlong, a federally operated prison under the BOP, has a designated PREA Compliance Manager. This position is held by an Associate Warden. This position is in FCI Herlong's organizational chart and reports directly to the Warden.

BOP expectations for all PREA Compliance Managers in its directly operated facilities can be found in PS 5324.12, Sexually Abusive Behavior Prevention, and Intervention Program. The Program Statement discusses the Warden's responsibilities in implementing the Program Statement and the PREA

Compliance Managers role in ensuring the coordination of the facility's prevention, detection, intervention and response to the sexual abuse and sexual harassment of inmates in their custody.

FCI Herlong's Institutional Supplement, HER 5324.12E, Sexually Abusive Behavior Prevention and Intervention Program also outlines the PREA Compliance Manager's role in coordinating FCI Herlong's prevention, detection, intervention, and response to sexual abuse and sexual harassment of inmates in their custody.

FCI Herlong's PREA Compliance Manager has sufficient time and authority to coordinate the facility's efforts to comply with the PREA Standards. When the PREA Compliance Manager was asked to describe how they ensure compliance, the PREA Compliance Manager states, "There is a lot of reading of policy, reviewing the PREA rounds as well as the institutional supplements. I am also checking emails from staff for questions or concerns."

Based on documentation review and interviews, FCI Herlong meets the standard: Zero tolerance of sexual abuse and sexual harassment; PREA coordinator.

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

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

#### 115.12 (a)

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

#### 115.12 (b)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

a) BOP has entered or renewed several contracts for the confinement of inmates on or after August 20, 2012, or since FCI Herlong's last PREA audit of April 25, 2018. These contracts include 10 private prisons and 150 Residential Reentry Centers. All contracts require contractors to adopt and comply with the PREA standards.

The Auditor reviewed three contracts and found language in each contract requiring the contractor to comply with the PREA standards.

b) These same contracts require the BOP to monitor the contractor's compliance with the PREA standards. BOP PS 5324.12 requires this language in all contracts.

When asked how BOP monitors new and renewed contracts for compliance with the PREA standards, the BOP Contract Administrator states, "Each private contract facility under contract with the Bureau of Prisons (BOP) has the following contract language: "The contractor shall develop policy and procedures for the establishment of a sexual abuse/ assault program and comply with the Prison Rape Elimination Act of 2003 and the national standards to prevent, detect and respond to prison rape as contained in 28 CFR Part 115, National Standards To Prevent, Detect, and Respond to Prison Rape; Final Rule, dated June 20, 2012." The contractor's policies and procedures are reviewed by Bureau subject matter experts who ensure appropriate adherence to national standards and regulations. The contractor is further required to notify the BOP of any PREA allegation and forward a copy of the allegation, the investigation, and the findings to BOP oversight staff for review. BOP oversight staff and the respective PMB Health Systems Specialist review any PREA allegation to ensure compliance with PREA requirements. Such reviews are reflected on monitoring reports. Additionally, at least once a year the BOP Quality Assurance Program conducts a review of all of each contractor's PREA allegations to determine contract compliance."

When asked if contract facilities completed and submitted their PREA compliance results, the BOP Contract Administrator states, "Ten of the Bureau's twelve private contract facilities have undergone at least an initial national PREA certification, with subsequent re-certifications every three years. Compliance results were submitted to the Bureau timely. Two new contracts were awarded in May 2019. Both NLK and RVS have scheduled dates this year for their national compliance review."

FCI Herlong does not enter contracts for the confinement of inmates.

Based on documentation review and interviews, FCI Herlong meets the following standard: Contracting with other entities for the confinement of inmates.

## **Standard 115.13: Supervision and monitoring**

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

#### **115.13 (a)**

- Does the facility have a documented staffing plan that provides for adequate levels of staffing

and, where applicable, video monitoring, to protect inmates against sexual abuse?  Yes  No

- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: Generally accepted detention and correctional practices?  Yes  No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: Any judicial findings of inadequacy?  Yes  No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: Any findings of inadequacy from Federal investigative agencies?  Yes  No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: Any findings of inadequacy from internal or external oversight bodies?  Yes  No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: All components of the facility's physical plant (including "blind-spots" or areas where staff or inmates may be isolated)?  Yes  No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: The composition of the inmate population?  Yes  No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: The number and placement of supervisory staff?  Yes  No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: The institution programs occurring on a particular shift?  Yes  No  NA
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: Any applicable State or local laws, regulations, or standards?  Yes  No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: The prevalence of substantiated and unsubstantiated incidents of sexual abuse?  Yes  No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: Any other relevant factors?  Yes  No

### 115.13 (b)

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

### 115.13 (c)

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

### 115.13 (d)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

a) BOP requires each of its directly operated facilities to develop, document, and make its best efforts to comply on a regular basis with a staffing plan that provides adequate levels of staffing and, where applicable, video monitoring, to protect inmates against abuse. Since FCI Herlong's last PREA audit (April 2018), the average daily population (ADP) is 987 at USP and 116 at the Satellite Camp. This ADP from the USP and the Satellite Camp is what the staffing plan at FCI Herlong was predicated.

BOP PS 3000.03, Human Resource Management Manual, dated December 19, 2007, outlines how each facility is to begin developing their staffing plan for the fiscal year. This Program Statement requires facilities to look at allotted positions, budget, historical turnover data, known and anticipated vacancies and/or mission changes.

In addition, BOP PS 5324.12, directs the Human Resource Management Division and the Administration Division, Central Office to work together and consider PREA factors, and overall safety, when allocating staffing resources.

b) N/A FCI Herlong has had no deviations from the staffing plan.

c) At least once every year FCI Herlong, in collaboration with the Regional PREA Coordinator review the staffing plan to see whether adjustments are needed to the plan, deployment of video monitoring technology or allocation of facility resources to commit to the staffing plan and to ensure compliance with the staffing plan.

BOP PS 5324.12 requires the meeting minutes discussing the review of the staffing plan are sent to the Regional PREA Coordinator by May 1 and then be submitted to the National PREA Coordinator by June 1 of each year.

The National PREA Coordinator states, "I am provided with an annual review of the staffing plan for the institutions. The Human Resource Management Division and the Administration Division allocate overall staffing resources."

The Auditor reviewed the Second Quarter Salary Committee Meeting minutes demonstrating the discussion of staffing numbers and PREA.

d) FCI Herlong requires that intermediate-level or higher-level staff conduct unannounced rounds to identify and deter staff sexual abuse and sexual harassment of inmates. FCI Herlong documents these rounds and requires unannounced rounds to cover all shifts. In addition, FCI Herlong prohibits staff from alerting other staff when these rounds are being conducted.

BOP PS 5324.12 outlines this requirement. The Program Statement instructs the Institution Duty Officer (IDO) to conduct and document unannounced rounds during the week they are assigned. The Program Statement requires this documentation to be forwarded to the PREA Compliance Manager for retention.

The Auditor reviewed eight weeks of documentation demonstrating unannounced rounds are being conducted at FCI Herlong. These reports document the date, day of the week, and area inspected by the IDO. These areas include the SHU, housing units, Food Service, Receiving & Discharge, Psychology Services, Recreation and any other area inmates and staff have access to in the facility.

Based on documentation review and interviews, FCI Herlong meets the following standard: Supervision and monitoring.

## **Standard 115.14: Youthful inmates**

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

#### **115.14 (a)**

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

#### 115.14 (b)

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

#### 115.14 (c)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

a, b, c) N/A FCI Herlong does not house youthful inmates. This was confirmed by the Auditor through interviews, documentation review and a tour of the facility.

Based on the documentation review, interviews, and tour of the facility, FCI Herlong meets the following standard: Youthful Inmates.

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

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

#### 115.15 (a)

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

#### 115.15 (b)

- Does the facility always refrain from conducting cross-gender pat-down searches of female inmates, except in exigent circumstances? (N/A if the facility does not have female inmates.)  
 Yes  No  NA
- Does the facility always refrain from restricting female inmates' access to regularly available programming or other out-of-cell opportunities to comply with this provision? (N/A if the facility does not have female inmates.)  Yes  No  NA

#### 115.15 (c)

- Does the facility document all cross-gender strip searches and cross-gender visual body cavity searches?  Yes  No
- Does the facility document all cross-gender pat-down searches of female inmates? (N/A if the facility does not have female inmates.)  Yes  No  NA

#### 115.15 (d)

- Does the facility have policies that enables inmates to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks?  Yes  No
- Does the facility have procedures that enables inmates to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks?  Yes  No
- Does the facility require staff of the opposite gender to announce their presence when entering an inmate housing unit?  Yes  No

#### 115.15 (e)

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

#### 115.15 (f)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

a) FCI Herlong does not conduct cross-gender strip searches or cross-gender visual body searches of inmates. In the past twelve (12) months, there have been zero cross-gender strip or cross-gender visual body searches of inmates.

BOP PS 5521.06, Searches of Housing Units, Inmates, and Inmate Work Areas dated June 4, 2015, defines a visual body search, and requires staff to be the same sex as the inmate, except in circumstances where delay would mean the likely loss of contraband. This Program Statement prohibits staff from performing cross-gender searches even if staff is assigned to posts in the visitation, receiving and discharge which require such searches.

While on-site at FCI Herlong, the Auditor spoke with 30 inmates. All inmates report they have never been strip searched or had a visual body search done by a female staff member. They report female staff are only allowed to pat search.

b) N/A FCI Herlong is a male only facility.

c) BOP and FCI Herlong have policy in place requiring all cross-gender strip searches and cross-gender visual body cavity searches be documented.

BOP PS 5324.12 outlines this requirement.

FCI Herlong reports they follow the national policy regarding cross-gender strip and cross-gender visual body searches.

d) BOP and FCI Herlong has implemented policies and procedures that enable inmates to shower, perform bodily functions, and change clothing without non-medical female staff viewing their buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks.

These policies and procedures require staff of the opposite gender to announce their presence when entering an inmate housing unit. This requirement can be found in BOP PS 5324.12. This same Program Statement also requires inmates to be appropriately clothed in all common areas of the facility. The Program Statement also identifies multiple ways inmates can be notified of opposite gender staff in the housing unit. This includes a sign being posted on bulletin boards in all housing units, including segregated housing: "Notice to Inmates: Male and Female staff routinely work and visit inmate housing areas. It also includes an announcement made at the beginning of each primary shift and whenever the facility deems appropriate. This verbal announcement will be "Notice: Opposite gender staff will be in housing units during this shift." For Unit Team staff, a staff schedule will be posted in the office area for inmates to see when all genders will be working.

All staff interviewed report announcements are made to inmates when female staff will be working in the housing unit.

Most inmates interviewed reported hearing the announcement over the intercom.

During the tour of FCI Herlong, the Auditor observed the following regarding inmate privacy for showering, performing bodily functions and changing clothes:

### **Facilities (General Maintenance for the Facility)**

Inmate workers have access to a restroom. This restroom cannot be viewed from the outside. The restroom has a swinging door at the entrance. Facilities has an open floor plan and has staff supervision.

### **Food Service**

One inmate restroom is in the dining area. This restroom is behind a solid door with only one inmate at a time allowed. Inmate workers in the kitchen also have access to a restroom. This restroom is behind a door with a window. Barriers are in place to prevent viewing of inmate's using the toilet from the kitchen area.

### **Housing Units in the FCI**

Housing Units Reno, Sierra, Tahoe each consist of four wings (A, B, C, D) and have the same layout. Each wing has two tiers of two-man cells with a toilet located behind the sink. The full toilet is not easily

viewed from the cell door. Each tier contains six individual showers with metal swinging half doors for privacy. The lower tier showers cannot be viewed from the top tier.

### **Recreation (Inside and Outside)**

The inside recreation area allows inmates to exercise, engage in hobbies/crafts, and participate in music classes. This area also has an inmate restroom. The restroom is located behind a barrier to ensure privacy.

The outside recreation area has an inmate restroom on the yard. The inmate restroom is surrounded by a half wall providing privacy for inmates who use it.

### **Special Housing Unit (SHU)**

The SHU contains two-man cells with toilet located behind the sink. The full toilet cannot be seen through the cell door. Some cells contain a shower. This shower is a single man shower and has a full curtain to ensure privacy. For those cells that do not have a shower, a shower is located on the range for their use. This shower is a single man shower with a curtain to hang in front while in use. The SHU also uses a cell for all visual searches. Visual searches are done one inmate at a time with the officer standing outside of the cell while the search is being conducted.

### **Medical (Health Services)**

One inmate restroom is in the hallway. This restroom is behind a solid door and contains a single toilet. Two cells are in the Airborne Isolation area. These cells contain a toilet and do not have cameras.

### **Receiving and Discharge**

This area contains four holding cells.

Concern: While on the tour, it was noted that while the toilet in holding cells 1 and 2 was located behind a half wall, the toilet area could still be seen from one vantage point from the hallway.

Facility Response: Executive Staff at FCI Herlong responded immediately to this concern. Before the end of the onsite portion of this audit, the line-of-sight concern was corrected. FCI Herlong extended the privacy barrier by adding an addition to the wall. This extension allowed for total privacy while using the toilet.

All inmates entering FCI Herlong are also subject to a visual search. The visual search area has three individual stalls. While three stalls are present, visual searches are done one at a time.

### **Visitation**

This area contains an inmate restroom and a visual search area. The inmate restroom is behind a solid door. Visual searches are done one inmate at time.

### **Education**

This area contains classrooms with large windows for easy viewing by staff. The inmate restroom is in the hallway behind a solid door with a high window. Only one inmate at a time may use the restroom.

### **Library**

This area has an open floor plan. There is no inmate restroom.

### **Psychology Services**

No inmate restroom is in this area.

### **Religious Services**

This area contains one inmate restroom. This restroom is behind a solid door with a window. Due the window size and additional covering has been added for privacy. The large chapel area has an open floor plan.

### **Safety**

This area contains classrooms with large windows. An inmate restroom is also present. A swinging half door at the entrance is at the entrance of the inmate restroom. This serves as a privacy barrier for inmates as it limits the view from outside of the restroom. Safety has an open floor plan with no blind spots.

### **Vocational**

Vocational consists of vocational training for carpentry and welding. Upon entry into this area an inmate visual search cell is present along with a metal detector. While the visual search cell is rarely used, if it is, a barrier is brought in to ensure privacy. Inmate would be searched one at a time.

The carpentry area contains an inmate restroom. This restroom has urinals separated by fixed barriers and toilets separate by fixed barriers with swinging doors. The toileting area cannot be viewed from the carpentry work area.

The welding area contains an inmate restroom behind a solid door. Only one inmate at a time can enter this restroom.

### **Commissary**

The inmate restroom is located behind a solid door. Only one inmate at a time can enter this restroom.

### **Laundry**

Inmate workers have access to one inmate restroom. This restroom is located behind a solid door. Only one inmate at a time can enter this restroom.

### **Garage (Facility Vehicle Maintenance)**

Inmate workers have access to one restroom. This restroom contains a toilet and a urinal separated by fixed barriers. This area is behind a solid door.

### **Warehouse (Food and Supplies)**

One inmate restroom is in this building. This restroom is located behind a solid door. Only one inmate at a time can enter this restroom.

## Powerhouse

One inmate restroom is in this building. This restroom is located behind a solid door. Only one inmate at a time can enter this restroom.

## Satellite Camp

- Food service contains one inmate restroom behind a door and marked one at a time.
- Kitchen contains an inmate restroom behind a solid door. All dry storage is located behind a locked door.
- Housing unit is an open dorm style layout with bunk beds. No blind spots.
- Laundry is open with no blind spots and can be seen from the housing unit.
- Inmate restroom contains individualize stalls with swinging  $\frac{3}{4}$  doors and have urinals behind a barrier.
- Inmate showers are in individual stalls with swinging door.
- Administration Area (Education, Medical, Unit Offices) has one inmate restroom in the hallway behind a solid door. Only one inmate at a time may use the restroom.
- Visitation contains an inmate restroom area combined with an area for visual searches. This area is located behind a solid door.

All inmates interviewed reported they felt they had enough privacy to shower, change their clothes and use the restroom without female staff observing them.

Staff interviewed also felt inmates had appropriate privacy.

e) BOP and FCI Herlong has policy prohibiting staff from searching or physically examining a transgender or intersex inmate for the sole purpose of determining the inmate's genital status. This can be found in BOP PS 5324.12 and the Program Statement covering searches (5521.06)

All staff interviewed state this type of search is prohibited.

The Auditor interviewed one inmate who identified as being a transgender female. They report they have not been searched for the sole purpose of determining their genitalia status.

f) All custody staff have been trained to conduct cross-gender pat down searches and searches of transgender and intersex inmates in a professional and respectful manner. Training materials are maintained by the Correctional Services Department.

The requirement for pat search training is found in the Program Statement 5521.06.

All staff interviewed report they have received pat search training. Most staff report receiving cross-gender pat search training while all staff report receiving training on pat searching transgender inmates.

Based on documentation review, interviews, and tour, FCI Herlong meets the following standard: Limits to cross-gender viewing and searches.

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

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

## 115.16 (a)

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

- Does the agency ensure that written materials are provided in formats or through methods that ensure effective communication with inmates with disabilities including inmates who: Are blind or have low vision?  Yes  No

#### 115.16 (b)

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

#### 115.16 (c)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

a, b) BOP and FCI Herlong has established procedures to provide disabled inmates equal opportunities to participate in or benefit from all aspects for BOP efforts to prevent, detect, and respond to sexual abuse and sexual harassment. This is also the same for those inmates with limited English proficiency.

BOP PS 5324.12 instructs Institution PREA Compliance Managers to also reach out to local disabilities assistance offices and interpretation services as resource.

When asked about BOP procedures BOP Agency Head states, "Each institution's PREA Compliance Manager reaches out to disabilities assistance offices in the local community as a resource for institution staff in providing effective communication accommodations when a need for such an accommodation exists. Additionally, each institution establishes a contract with a language line for those inmates who speak a language other than English."

In 2014, the Department of Justice (DOJ) established a Blanket Purchasing Agreement for on demand, over-the-phone interpreter services, with LanguageLine Solutions. This service would provide translators for all languages that inmates are likely to speak. This BPA allows for institutions to sign up for services. This agreement was extended in 2019.

FCI Herlong reports inmates with visual and hearing disabilities and who are limited English proficient receive PREA-related information both verbally and in writing. The institution has contracts in place for American Sign Language interpreters, LanguageLine interpreters, Video Relay System conferencing, telephone access, and electronic messaging access.

There were no inmates on-site who were identified as being visually impaired or hearing impaired. Interviews with inmates provided no additional information on inmates who may be visually or hearing impaired at FCI Herlong.

FCI Herlong has numerous staff on hand who could act as an interpreter.

During the tour of FCI Herlong, the Auditor noted PREA related signs in the housing units, visitation, medical, warehouses, recreation and at the entrance to the facility. These signs were posted in English and in Spanish. The Auditor's Notice of Audit is also posted near these signs. The Notice of Audit is in English and in Spanish.

c) BOP policy prohibits use of inmate interpreters, inmate readers, or other types of inmate assistance except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the inmate's safety, the performance of first-response duties under 115.64, or the investigation of the inmate's allegations.

BOP PS 5324.12 outlines this prohibitive practice. In the past twelve months, there have been zero instances where inmate interpreter, readers, or other type of inmate assistance have been used.

There were no inmates on-site who were identified as being visually impaired or hearing impaired. Interviews with inmates provided no additional information on inmates who may be visually or hearing impaired at FCI Herlong.

Based on documentation review, interviews, and tour, FCI Herlong meets the following standard: Inmates with disabilities and inmates who are limited English proficient.

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

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

#### **115.17 (a)**

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

facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse?  Yes  No

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

#### 115.17 (b)

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

#### 115.17 (c)

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

#### 115.17 (d)

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

#### 115.17 (e)

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

### 115.17 (f)

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

### 115.17 (g)

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

### 115.17 (h)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

a) BOP policy prohibits hiring or promoting anyone who may have contact with inmates and prohibits enlisting the services of any contractor who may have contact with inmates who has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility or other institutions; has been convicted of engaging or attempting to engage in sexual activity in the community confinement

facility by force, overt or implied threats of force, or coercion; or has been civilly or administratively adjudicated to have engaged in the activity described.

BOP PS 5324.12 uses language in this standard to describe this prohibitive hiring or promoting process.

The Auditor interviewed a representative of the Human Resource Department. This staff person reports FCI Herlong follows BOP policy. They state these questions are asked and impacts all hiring and promotional acts.

b) BOP policy (PS 5324.12) requires the consideration of any incidents for sexual harassment in determining whether to hire or promote anyone, or to enlist the services of any contractor, who may have contact with inmates.

FCI Herlong Human Resource representative reports this part of policy and prior incidents of sexual harassment are taken into consideration.

c) BOP policy (PS 5324.12) requires that before the agency hires any new employee who may have contact with inmates, a background investigation must be completed. This investigation includes criminal history checks and contact with prior institutional employers.

This same information can be found in PS 3000.03 which discusses staffing.

Potential new hires are also informed of this requirement on the BOP recruitment flyer and the Questionnaire for Public Trust Positions.

d) BOP policy (PS 3000.03 and PS 5324.12) requires a criminal background record checks to be completed before enlisting the services of any contractor who may have contact with inmates.

e) BOP policy (PS 3000.03 and PS 5324.12) also requires that either criminal background record checks be conducted at least every five years for current employees and contractors who may have contact with inmates, or that a system is in place for otherwise capturing such information for current employees.

f, g) BOP policy (PS 5324.12) also requires that all applicants and employees who may have contact with inmates be asked about previous misconduct described in this standard. This Program Statement also states that material omissions regarding such misconduct, or if false information is provided to the agency, it will be grounds for termination.

h) BOP policy (PS 5324.12) also addresses providing information on substantiated allegations of sexual abuse or sexual harassment involving the former employee upon receiving a request from an institutional employer for whom such employee has applied to work.

The Human Resource representative states, "We would provide anything they needed, especially for fellow law enforcement agencies.

Based on interviews and documentation review, FCI Herlong meets the following standard: Hiring and promotion decisions.

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

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

### 115.18 (a)

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

### 115.18 (b)

- If the agency installed or updated a video monitoring system, electronic surveillance system, or other monitoring technology, did the agency consider how such technology may enhance the agency's ability to protect inmates from sexual abuse? (N/A if agency/facility has not installed or updated a video monitoring system, electronic surveillance system, or other monitoring technology since August 20, 2012, or since the last PREA audit, whichever is later.)  
 Yes  No  NA

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

a, b) N/A FCI Herlong has not made substantial expansion to the facility or installed or updated a video monitoring system, electronic surveillance system or other monitoring technology since the date of its last PREA audit in 2018.

This was confirmed through interviews. Based on this information, FCI Herlong meets the following standard: Upgrades to facilities and technology.

## RESPONSIVE PLANNING

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

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

### 115.21 (a)

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

### 115.21 (b)

- Is this protocol developmentally appropriate for youth where applicable? (N/A if the agency/facility is not responsible for conducting any form of criminal OR administrative sexual abuse investigations.)  Yes  No  NA
- Is this protocol, as appropriate, adapted from or otherwise based on the most recent edition of the U.S. Department of Justice's Office on Violence Against Women publication, "A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents," or similarly comprehensive and authoritative protocols developed after 2011? (N/A if the agency/facility is not responsible for conducting any form of criminal OR administrative sexual abuse investigations.)  Yes  No  NA

### 115.21 (c)

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

### 115.21 (d)

- Does the agency attempt to make available to the victim a victim advocate from a rape crisis center?  Yes  No
- If a rape crisis center is not available to provide victim advocate services, does the agency make available to provide these services a qualified staff member from a community-based organization, or a qualified agency staff member? (N/A if the agency *always* makes a victim advocate from a rape crisis center available to victims.)  Yes  No  NA

- Has the agency documented its efforts to secure services from rape crisis centers?  
 Yes  No

#### 115.21 (e)

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

#### 115.21 (f)

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

#### 115.21 (g)

- Auditor is not required to audit this provision.

#### 115.21 (h)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

a, b) FCI Herlong has in-house investigators who conduct administrative investigations of inmate-on-inmate sexual abuse and sexual harassment. The Federal Bureau of Investigation (FBI) and the Office

of the Inspector General (OIG) conduct criminal investigations of inmate-on-inmate sexual abuse as well as staff-on-inmate sexual abuse allegations. All investigators, whether administrative investigators or criminal investigators follow a uniform evidence protocol. This protocol follows the most current version 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."

A memo from the U.S. Department of Justice outlines the investigative policy for the Prison Rape Elimination Act. This policy provides PREA definitions, file retention, processing allegations, confidentiality, training, victim advocates, interviews, evidentiary consideration, crime scene investigation, and case application.

All staff interviewed were able to discuss with the Auditor their role in protecting evidence while waiting for investigators. They all report securing the crime scene and preventing evidence from being destroyed. They stated this is done by not allowing the victim and alleged perpetrator to use the shower, use the restroom, change their clothes, or brush their teeth.

c) FCI Herlong offers all inmates who experience sexual abuse access to forensic medical examinations. These examinations are offered without financial cost to the victim. These examinations are conducted by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs). If they are not available, a qualified medical practitioner performs the examination.

This practice is echoed in the BOP PS 5324.12.

In the past twelve months there have been zero forensic medical exams conducted by SANEs/SAFEs or qualified medical practitioner.

There were no SAFE/SANE Staff on-site to be interviewed.

d, e) FCI Herlong attempts to make a victim advocate from a rape crisis center available to the victim, either in person or by other means. These efforts are documented. When a rape crisis center is not available to provide victim advocate services, the facility provides a qualified staff member from a community-based organization or qualified agency staff member.

If requested by the victim, a victim advocate or qualified staff member accompanies and supports the victim through forensic medical examination process and investigatory interviews. They also provide crisis intervention, information and referrals if needed.

BOP PS 5324.12 directs the PREA Compliance Manager to work with Psychology Services, to attempt to enter into an agreement with a rape crisis center to make available a victim advocate. It also states if an agreement cannot be made, a professionally trained Psychology Services or Chaplaincy Services staff members may provide victim advocacy services.

The PREA Compliance Manager states, "Information on victim advocates is in the inmate handbook. We also have an MOU in place with a local agency."

FCI Herlong has an agreement with Lassen Family Services, Inc. to provide inmates with confidential emotional support services related to sexual abuse.

While the Auditor selected the inmate, who reported sexual abuse to FCI Herlong, this inmate would not share with the Auditor they had made a report.

f) While investigators at FCI Herlong are only responsible for administrative investigations of inmate sexual abuse, outside investigators from the FBI and OIG have been asked to follow the PREA standards.

A memo from the U.S. Department of Justice outlines the investigative policy for the Prison Rape Elimination Act. This is also outlined in the MOU between the BOP and FBI.

Investigators from the FBI and OIG have also been trained to investigate sexual abuse allegations.

Based on documentation review and interviews, FCI Herlong meets the following standard: Evidence protocol and forensic medical examinations.

## Standard 115.22: Policies to ensure referrals of allegations for investigations

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

#### 115.22 (a)

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

#### 115.22 (b)

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

#### 115.22 (c)

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

#### 115.22 (d)

- Auditor is not required to audit this provision.

#### 115.22 (e)

- Auditor is not required to audit this provision.

## Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

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a) FCI Herlong ensures that an administrative or criminal investigation is completed for all allegations of sexual abuse and sexual harassment. In the past 12 months, FCI Herlong received ten allegations of sexual abuse and sexual harassment of inmates. Of this number, ten allegations had administrative investigations completed and zero allegations were referred for criminal investigation.

The requirement for referral for investigation is established by BOP policy. This is found in PS 5324.12.

The BOP Agency Head reports, "Yes, all allegations are investigated. In general, the Office of the Inspector General (OIG) of the Department of Justice investigates potential criminal cases involving staff on inmate sexual abuse. The Office of Internal Affairs (OIA) of the Bureau of Prisons investigates administrative cases of staff-on-inmate sexual abuse or harassment. Institution investigative staff, the Special Investigative Services (SIS), investigates all other cases. OIG, OIA, and SIS, in general, review the allegation(s) and predicated information. Substantiated allegations for administrative investigations or criminal prosecutions are based on the corroboration of witnesses and victim statements, predicated information, along with physical evidence."

b, c) BOP has policy in place that requires allegations of sexual abuse and sexual harassment be referred for investigation to an agency with the legal authority to conduct criminal investigations.

The Auditor reviewed documentation demonstrating FBI's responsibility and authority to conduct criminal investigations. This is also demonstrated in an MOU between BOP and the FBI.

The Auditor interviewed one administrative investigator. This investigator confirms all potential criminal allegations are referred for investigation.

Based on documentation review and interviews, FCI Herlong meets the following standard: Policies to ensure referrals of allegations for investigation.

# TRAINING AND EDUCATION

## Standard 115.31: Employee training

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

### 115.31 (a)

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

### 115.31 (b)

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

### 115.31 (c)

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

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

### 115.31 (d)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

a) BOP trains all employees who may have contact with inmates on all areas outlined in this standard. This is also required by policy and can be found in PS 5324.12.

The Auditor reviewed BOP curriculum titled, "Sexually Abusive Behavior Prevention and Intervention Program," and found all required elements were present.

All staff interviewed at FCI Herlong were able to discuss topics covered in the PREA training with the Auditor. They discussed zero tolerance, their responsibilities in preventing, detecting, and responding to sexual abuse, an inmate's right to be free from sexual abuse and sexual harassment, provided examples of red flags you would see in inmate victims, perpetrators, and staff misconduct. They were able to discuss communication with inmates who identify as gay, bisexual, transgender, and intersex. Every staff member states they are mandated reporter. They also advised there would be disciplinary action if they failed to report up to possible prison time.

b) BOB training is tailored for both male and female inmates. FCI Herlong is a male only facility.

c) All staff at FCI Herlong have received the required PREA training. In the past twelve months, 259 FCI Herlong employees have been trained. All refresher training is done online through BOP Learn. The last annual training was provided in 2020. Annual refresher training takes the gender of the inmate

population at each facility into account. Transferring staff members receive gender-appropriate training as needed.

Between trainings staff at FCI Herlong receive PREA information and changes to policy through intel briefs, department head meetings, SHU training, specialty training for counselors, health services and lieutenants.

d) BOP requires all directly operated facilities to document employee training.

The Auditor reviewed training rosters for staff at FCI Herlong. These training rosters are from PREA training staff have received including the annual refresher.

Based on documentation review and interviews, FCI Herlong meets the following standard: Employee Training.

## Standard 115.32: Volunteer and contractor training

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

#### 115.32 (a)

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

#### 115.32 (b)

- Have all volunteers and contractors who have contact with inmates been notified of the agency's zero-tolerance policy regarding sexual abuse and sexual harassment and informed how to report such incidents (the level and type of training provided to volunteers and contractors shall be based on the services they provide and level of contact they have with inmates)?  Yes  No

#### 115.32 (c)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

a) All volunteers and contractors who have contact with inmates at FCI Herlong have been trained on their responsibilities under BOP policies and procedures regarding sexual abuse/harassment prevention, detection, and response.

In the past twelve months, 42 contractors have received this training. This training is titled "Sexual Abusive Behavior Prevention and Intervention."

b) 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 inmates at FCI Herlong. All volunteers and contractors who have contact with inmates have been notified of BOP zero-tolerance policy regarding sexual abuse and sexual harassment and informed how to report any knowledge or suspicion of sexual abuse and sexual harassment of inmates.

Due to COVID-19 protocols, there were no volunteers available to interview. While medical staff are contractors, the Auditor interviewed these identified staff members using the medical and mental health interview protocols.

Based on documentation review, FCI Herlong meets the following standard: Volunteer and contractor training.

## **Standard 115.33: Inmate education**

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

#### **115.33 (a)**

- During intake, do inmates receive information explaining the agency's zero-tolerance policy regarding sexual abuse and sexual harassment?  Yes  No
- During intake, do inmates receive information explaining how to report incidents or suspicions of sexual abuse or sexual harassment?  Yes  No

#### **115.33 (b)**

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

- Within 30 days of intake, does the agency provide comprehensive education to inmates either in person or through video regarding: Agency policies and procedures for responding to such incidents?  Yes  No

#### 115.33 (c)

- Have all inmates received the comprehensive education referenced in 115.33(b)?  Yes  No
- Do inmates receive education upon transfer to a different facility to the extent that the policies and procedures of the inmate's new facility differ from those of the previous facility?  Yes  No

#### 115.33 (d)

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

#### 115.33 (e)

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

#### 115.33 (f)

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

#### Auditor Overall Compliance Determination

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

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

**Instructions for Overall Compliance Determination Narrative**

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a, b, c, f) Inmates at FCI Herlong receive information at the time of intake about the zero-tolerance policy and how to report incidents of sexual abuse or harassment. This is covered under BOP PS 5324.12.

During the past twelve months, 377 inmates have been admitted to FCI Herlong. Of this number, 100% of the inmates received PREA information.

The Auditor interviewed one intake staff. They state inmates receive the Admission and Orientation Pamphlet on Sexually Abusive Behavior Prevention and Intervention when they arrive and have their initial screening.

All 377 inmates admitted to FCI Herlong received comprehensive education regarding their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents. This education is provided in person by designated staff members from Psychology Services.

Intake staff from Psychology Services state inmate orientation happens within the first 30 days of being admitted to FCI Herlong.

All inmates interviewed state they remember receiving PREA information when they first arrived at FCI Herlong. Many inmates also commented on the number of PREA related signs posted throughout the facility.

d) FCI Herlong provided PREA education in formats accessible to all inmates including those who are limited English proficient, deaf, visually impaired, and otherwise disabled. This is also required by BOP PS 5324.12.

PREA education is provided in Education and Spanish.

Intake staff state interpretive services are always available if communicating with an inmate is difficult.

e) FCI Herlong maintains documentation of inmate participation in PREA education.

While on-site, the Auditor reviewed eleven inmate files and found all files contained inmate signatures acknowledging receiving inmate orientations on "Sexual Abuse/Assault Prevention and Intervention."

Based on documentation review and interviews, FCI Herlong meets the following standard: Inmate education.

**Standard 115.34: Specialized training: Investigations**

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

### 115.34 (a)

- In addition to the general training provided to all employees pursuant to §115.31, does the agency ensure that, to the extent the agency itself conducts sexual abuse investigations, its investigators receive 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 115.21(a).)  Yes  No  NA

### 115.34 (b)

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

### 115.34 (c)

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

### 115.34 (d)

- Auditor is not required to audit this provision.

### Auditor Overall Compliance Determination

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

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

### Instructions for Overall Compliance Determination Narrative

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a, b) BOP policy (PS 5324.12) requires that investigators be trained in conducting sexual abuse investigations in confinement settings. Currently FCI Herlong has four trained administrative investigators.

The Auditor interviewed one administrative investigator. This investigator was able to discuss the specialized training they received regarding sexual abuse investigations. This investigator also reports they were trained on interviews, evidence collection, criteria to substantiate an allegation and the use of Miranda vs. Gerrity.

The Auditor reviewed the following curriculum:

- Sexual Violence PREA
- Interviews and Union Issues
- Office of Internal Affairs – Conducting Interviews and Union Issues
- DOJ/OIG PREA Training

c) BOP and FCI Herlong maintains documentation showing that investigators have completed the required training.

The Auditor reviewed training records of investigators and found it meets the requirements of this standard.

Based on documentation review and interviews, FCI Herlong meets the following standard: Specialized training Investigations.

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

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

#### 115.35 (a)

- Does the agency ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in how to detect and assess signs of sexual abuse and sexual harassment? (N/A if the agency does not have any full- or part-time medical or mental health care practitioners who work regularly in its facilities.)  Yes  No  NA
- 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? (N/A if the agency does not have any full- or part-time medical or mental health care practitioners who work regularly in its facilities.)  Yes  No  NA

- 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? (N/A if the agency does not have any full- or part-time medical or mental health care practitioners who work regularly in its facilities.)  Yes  No  NA
- 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? (N/A if the agency does not have any full- or part-time medical or mental health care practitioners who work regularly in its facilities.)  Yes  No  NA

#### 115.35 (b)

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

#### 115.35 (c)

- Does the agency maintain documentation that medical and mental health practitioners have received the training referenced in this standard either from the agency or elsewhere? (N/A if the agency does not have any full- or part-time medical or mental health care practitioners who work regularly in its facilities.)  Yes  No  NA

#### 115.35 (d)

- Do medical and mental health care practitioners employed by the agency also receive training mandated for employees by §115.31? (N/A if the agency does not have any full- or part-time medical or mental health care practitioners employed by the agency.)  Yes  No  NA
- Do medical and mental health care practitioners contracted by or volunteering for the agency also receive training mandated for contractors and volunteers by §115.32? (N/A if the agency does not have any full- or part-time medical or mental health care practitioners contracted by or volunteering for the agency.)  Yes  No  NA

#### Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

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a, d) BOP policy (5324.12) requiring medical and mental health practitioners who work regularly with inmates be trained in how to detect and assess signs of sexual abuse and sexual harassment, how to preserve physical evidence, and how to and whom to report sexual abuse and sexual harassment. Medical and mental health practitioners also received the same PREA training as all other staff who have contact with inmates.

All practitioners at FCI Herlong have been trained according to policy and this standard. The Health Services Department is responsible for ensuring this training is completed.

The Auditor interviewed two medical and mental health practitioners. All reported receiving PREA training.

b) N/A Medical staff at FCI Herlong do not conduct forensic exams.

c) BOP and FCI Herlong maintains documentation showing medical and mental health practitioners have received the required training under this standard.

The Auditor reviewed a training roster showing health services have received the following training: PREA for Medical and Mental Health Care – BOP. This training can be viewed online.

Based on documentation review and interviews, FCI Herlong meets the following standard: Specialized training medical and mental health care.

## SCREENING FOR RISK OF SEXUAL VICTIMIZATION AND ABUSIVENESS

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

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

#### 115.41 (a)

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

#### 115.41 (b)

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

#### 115.41 (c)

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

#### 115.41 (d)

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (1) Whether the inmate has a mental, physical, or developmental disability?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (2) The age of the inmate?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (3) The physical build of the inmate?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (4) Whether the inmate has previously been incarcerated?  
 Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (5) Whether the inmate's criminal history is exclusively nonviolent?  
 Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (6) Whether the inmate has prior convictions for sex offenses against an adult or child?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (7) Whether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming (the facility affirmatively asks the inmate about his/her sexual orientation and gender identity AND makes a subjective determination based on the screener's perception whether the inmate is gender non-conforming or otherwise may be perceived to be LGBTI)?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (8) Whether the inmate has previously experienced sexual victimization?  Yes  No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (9) The inmate's own perception of vulnerability?  Yes  No

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (10) Whether the inmate is detained solely for civil immigration purposes?  Yes  No

#### 115.41 (e)

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

#### 115.41 (f)

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

#### 115.41 (g)

- Does the facility reassess an inmate's risk level when warranted due to a referral?  Yes  No
- Does the facility reassess an inmate's risk level when warranted due to a request?  Yes  No
- Does the facility reassess an inmate's risk level when warranted due to an incident of sexual abuse?  Yes  No
- Does the facility reassess an inmate's risk level when warranted due to receipt of additional information that bears on the inmate's risk of sexual victimization or abusiveness?  Yes  No

#### 115.41 (h)

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

#### 115.41 (i)

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

### Auditor Overall Compliance Determination

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

### **Instructions for Overall Compliance Determination Narrative**

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

a, b, c) BOP policy (PS 5324.12) requires screening (upon admission to a facility or transfer to another facility) for risk of sexual abuse victimization or sexual abusiveness toward other inmates. This policy requires this screening to be completed within 72 hours of their admission to a facility.

In the past twelve months 377 inmates have been admitted to FCI Herlong who had a length of stay longer than 30 days. All inmates received an initial screening.

The Auditor interviewed one staff member who is responsible for conducting the risk screening tool. This staff member reports the initial risk screenings are done as soon as possible but always within the first 72 hours of admission to FCI Herlong. Due to COVID-19 and quarantine protocols, this has at times been extended to fourteen days. These staff member also reports all risk screening interviews are done in a private setting where other inmates cannot overhear their conversation.

All inmates interviewed report they remember being asked these types of questions when they first arrived at FCI Herlong or after they completed quarantine. They shared they were asked if they had been sexually abused, is the first time they have ever been incarcerated, do they identify as a straight man, gay man, bisexual, or transgender.

While on-site, the Auditor reviewed the inmate files of all 30 inmates selected for interview and found all 30 had the risk screening interview completed per BOP policy.

d, e) The risk screening interview meets all the requirements as outlined in this standard.

Risk screening staff report the interview covers some of these topics: age, height, weight, their criminal history, history of being sexually victimized or sexually abusive. They also report they ask about sexual orientation.

f, g) BOP policy (5324.12) requires its directly operated facilities to reassess each inmate's risk of victimization or abusiveness within a set period, not to exceed 30 days after the inmate's arrival at the facility.

Staff who conduct the risk screening interview report they are required to do another assessment within 30 days of the inmate's arrival at FCI Herlong. They also report if something happens or new information is obtained, a reassessment will be completed.

Most inmates interviewed report being asked the same type of questions again after their initial interview.

All 30 inmate folders reviewed had documentation showing a reassessment was completed within 30 days of the initial screening.

h) BOP policy (PS 5324.12) prohibits disciplining inmates for refusing to answer or not disclosing complete information during the risk screening interview.

Staff report they have never had an inmate refuse to participate. They state if this happens the inmate is not punished.

i) Appropriate controls are in place which controls the dissemination within the facility of the responses to the questions during the risk screening interviews.

The National PREA Coordinator states, "Our policy indicates that this information is limited to staff who have a need to know. That may vary depending on what is recommended within the risk assessment. For example, if there is an elevated risk level with recommendations on cell assignment and work, Correctional Counselor will be notified since that individual is responsible for those assignments. Executive staff and the Captain are made aware in all instances due to security concerns."

The PREA Compliance Manager reports, "This information is limited to Unit team and Psychology Services."

Staff who conduct the risk screening interview state only certain staff have access and the completed interview is secured in a locked cabinet.

Based on documentation review and interviews, FCI Herlong meets the following standard: Screening for risk of victimization and abusiveness.

## Standard 115.42: Use of screening information

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

#### 115.42 (a)

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

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

#### 115.42 (b)

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

#### 115.42 (c)

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

#### 115.42 (d)

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

#### 115.42 (e)

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

#### 115.42 (f)

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

#### 115.42 (g)

- Unless placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting lesbian, gay, bisexual, transgender, or intersex inmates, does the agency always refrain from placing: lesbian, gay, and bisexual inmates in dedicated facilities, units, or wings solely based on such identification or status? (N/A if the agency has a dedicated facility, unit, or wing solely for the

placement of LGBT or I inmates pursuant to a consent decree, legal settlement, or legal judgement.)  Yes  No  NA

- Unless placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting lesbian, gay, bisexual, transgender, or intersex inmates, does the agency always refrain from placing: transgender inmates in dedicated facilities, units, or wings solely based on such identification or status? (N/A if the agency has a dedicated facility, unit, or wing solely for the placement of LGBT or I inmates pursuant to a consent decree, legal settlement, or legal judgement.)  Yes  No  NA
- Unless placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting lesbian, gay, bisexual, transgender, or intersex inmates, does the agency always refrain from placing: intersex inmates in dedicated facilities, units, or wings solely on the basis of such identification or status? (N/A if the agency has a dedicated facility, unit, or wing solely for the placement of LGBT or I inmates pursuant to a consent decree, legal settlement, or legal judgement.)  Yes  No  NA

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

a, b) FCI Herlong uses information from the risk screening required by 115.41 to inform housing, bed, work, education, and program assignments with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive. These decisions are based on individualized determinations about how to ensure the safety of each inmate.

This process is mandated by BOP PS 5324.12.

The PREA Compliance Manager states, "We use risk screening interview to determine housing and work."

The Auditor interviewed staff who are responsible for conducting the risk screening interview. They report this information is used to determine housing, jobs and cell assignments."

c) FCI Herlong makes housing and program assignments for transgender or intersex inmates in the facility on a case-by-case basis as mandated by BOP PS 5423.12.

This is accomplished at the Designation & Sentence Computation Center (DSCC) with the Transgender Executive Council (TEC). The initial designations and transfers of transgender inmates are reviewed by the TEC and documented. This documentation demonstrates that TEC has reviewed and cleared the inmate for designation to the approved facility.

BOP provided ten examples from 2020 and 2021 demonstrating this documentation.

d, e, f) For transgender or intersex inmates' placement and programming assignments are reassessed at least twice a year. In addition, during this reassessment their views with respect to their safety is given serious consideration. Transgender and intersex inmates are also given the opportunity to shower separately from other inmates. This process is mandated by BOP PS 5324.12.

The PREA Compliance Manager states, "We base everything of their needs, security levels and concerns."

Staff responsible for the risk screening interview report placement of transgender and intersex inmates, like all inmates, is determined on a case-by-case basis. They report they always take into consideration the inmate's view of their own safety in making placement and programming decisions. They also report transgender and intersex inmate's placement needs are reassessed every six months.

During the tour, the Auditor noted each housing unit has individual shower stalls with solid curtains in place. This allows custody staff to still view the inmate from the shoulders up and from the knees down.

The Auditor interviewed one inmate who identified as a transgender female. This inmate reports no concerns with privacy while showering.

g) BOP/FCI Herlong do not have a housing unit or wing dedicated to housing inmates who identify as gay, bisexual, transgender, or intersex. The Auditor verified this information through the tour of the facility. This was also verified through interviews with transgender inmates.

The Auditor was unable to specifically select inmates who identified as being gay or bisexual from housing unit rosters. During inmate interviews no inmate would confirm their sexual orientation with the Auditor.

Based on documentation review and interviews, FCI Herlong meets the following standard: Use of screening instrument.

## **Standard 115.43: Protective Custody**

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

#### **115.43 (a)**

- Does the facility always refrain from placing inmates at high risk for sexual victimization in involuntary segregated housing unless an assessment of all available alternatives has been made, and a determination has been made that there is no available alternative means of separation from likely abusers?  Yes  No

- If a facility cannot conduct such an assessment immediately, does the facility hold the inmate in involuntary segregated housing for less than 24 hours while completing the assessment?  
 Yes  No

#### 115.43 (b)

- Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Programs to the extent possible?  Yes  No
- Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Privileges to the extent possible?  Yes  No
- Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Education to the extent possible?  Yes  No
- Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Work opportunities to the extent possible?  Yes  No
- If the facility restricts any access to programs, privileges, education, or work opportunities, does the facility document the opportunities that have been limited? (N/A if the facility *never* restricts access to programs, privileges, education, or work opportunities.)  Yes  No  NA
- If the facility restricts any access to programs, privileges, education, or work opportunities, does the facility document the duration of the limitation? (N/A if the facility *never* restricts access to programs, privileges, education, or work opportunities.)  Yes  No  NA
- If the facility restricts any access to programs, privileges, education, or work opportunities, does the facility document the reasons for such limitations? (N/A if the facility *never* restricts access to programs, privileges, education, or work opportunities.)  Yes  No  NA

#### 115.43 (c)

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

#### 115.43 (d)

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

#### 115.43 (e)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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a) BOP has a policy (PS5324.12) prohibiting the placement of inmates at high risk for sexual victimization in involuntary segregated housing unless assessment of all available alternatives has been decided and that there is no available alternative means of separation from likely abusers.

In the past twelve months, no inmates at high risk for sexual victimization have been placed in involuntary segregated housing.

The Warden states, "We would use involuntary segregation as a last resort and only until alternative housing is found."

b) If an inmate at FCI Herlong was placed in involuntary segregated housing due to being at high risk for sexual victimization, they would still have access to religion, education, and the law library.

The Auditor interviewed staff who supervise segregated housing, also known as the Special Housing Unit (SHU). They report if an inmate were placed in the SHU involuntarily due being an alleged victim of sexual abuse, their access to programs would not be limited as other inmates placed in this type of housing unit. Inmates generally placed in the SHU are there for disciplinary reasons. They advise that this is per policy.

When the Auditor asked if staff would document if access to education and the law library was restricted. Their response: "Yes. Everything gets documented."

c. d. e) Inmates at FCI Herlong would only be placed in segregated housing until an alternative means of separation from their abuser can be obtained. The facility documents why placement in this housing unit was necessary. If the inmate remains in involuntary segregation, the facility does 30-day reviews to determine if placement needs to remain the same or if they can move them to an alternative form of housing.

Staff who supervised the SHU reports, “It always depends on the situation; however, they would only be held in the SHU until another housing placement opens up. Psychology Services would do the review.”

There were no inmates placed in segregated housing on the days of the on-site portion of this audit.

Based on documentation review and interviews, FCI Herlong meets the following standard: Protective Custody.

## REPORTING

### Standard 115.51: Inmate reporting

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

##### 115.51 (a)

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

##### 115.51 (b)

- Does the agency also provide at least one way for inmates to report sexual abuse or sexual harassment to a public or private entity or office that is not part of the agency?  Yes  No
- Is that private entity or office able to receive and immediately forward inmate reports of sexual abuse and sexual harassment to agency officials?  Yes  No
- Does that private entity or office allow the inmate to remain anonymous upon request?  Yes  No
- Are inmates detained solely for civil immigration purposes provided information on how to contact relevant consular officials and relevant officials at the Department of Homeland Security? (N/A if the facility *never* houses inmates detained solely for civil immigration purposes)  Yes  No  NA

##### 115.51 (c)

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

- Does staff promptly document any verbal reports of sexual abuse and sexual harassment?  
 Yes  No

#### 115.51 (d)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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a, c) FCI Herlong has established procedures allowing for multiple internal ways for inmates to report privately any incident of sexual abuse or sexual harassment, retaliation, and staff neglect. These reporting procedures are in alignment with BOP policy (PS5324.12).

Staff advise inmates can make reports by either telling staff, emails, using the hotline or they can write a letter or use an inmate communication form. Most staff state inmates can make a report without giving their name. They identified the phone and email as ways inmates can do this.

Inmates advise they can make reports by sending an email, writing a letter, or telling staff. Most inmates report they see information on reporting on posters throughout the housing units.

b) FCI Herlong provides at least one way for inmates to report abuse or harassment to a public or private entity or office that is not part of the agency. Inmates at FCI Herlong can contact the Office of the Inspector General with any report of sexual abuse or sexual harassment, retaliation, and staff neglect.

This information is provided on posters throughout the facility and in the inmate handbook. This information is available in English and Spanish.

The PREA Compliance Manager states, "Inmates can write Central Office, request an administrative remedy, contact the regional office or go through Trulinks."

d) BOP has established procedures in accordance with this standard and PS4324.12 for staff to privately report sexual abuse and sexual harassment of inmates.

Most staff interviewed report they could contact OIG if they needed to make a private report.

Based on documentation review and interviews, FCI Herlong meets the following standard: Inmate reporting.

## Standard 115.52: Exhaustion of administrative remedies

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

#### 115.52 (a)

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

#### 115.52 (b)

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

#### 115.52 (c)

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

#### 115.52 (d)

- Does the agency issue a final agency decision on the merits of any portion of a grievance alleging sexual abuse within 90 days of the initial filing of the grievance? (Computation of the 90-day time period does not include time consumed by inmates in preparing any administrative appeal.) (N/A if agency is exempt from this standard.)  Yes  No  NA
- If the agency claims the maximum allowable extension of time to respond of up to 70 days per 115.52(d)(3) when the normal time period for response is insufficient to make an appropriate decision, does the agency notify the inmate in writing of any such extension and provide a date

by which a decision will be made? (N/A if agency is exempt from this standard.)

Yes  No  NA

- At any level of the administrative process, including the final level, if the inmate does not receive a response within the time allotted for reply, including any properly noticed extension, may an inmate consider the absence of a response to be a denial at that level? (N/A if agency is exempt from this standard.)  Yes  No  NA

#### 115.52 (e)

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

#### 115.52 (f)

- Has the agency established procedures for the filing of an emergency grievance alleging that an inmate is subject to a substantial risk of imminent sexual abuse? (N/A if agency is exempt from this standard.)  Yes  No  NA
- After receiving an emergency grievance alleging an inmate is subject to a substantial risk of imminent sexual abuse, does the agency immediately forward the grievance (or any portion thereof that alleges the substantial risk of imminent sexual abuse) to a level of review at which immediate corrective action may be taken? (N/A if agency is exempt from this standard.)  Yes  No  NA
- After receiving an emergency grievance described above, does the agency provide an initial response within 48 hours? (N/A if agency is exempt from this standard.)  Yes  No  NA
- After receiving an emergency grievance described above, does the agency issue a final agency decision within 5 calendar days? (N/A if agency is exempt from this standard.)  Yes  No  NA
- Does the initial response and final agency decision document the agency's determination whether the inmate is in substantial risk of imminent sexual abuse? (N/A if agency is exempt from this standard.)  Yes  No  NA
- Does the initial response document the agency's action(s) taken in response to the emergency grievance? (N/A if agency is exempt from this standard.)  Yes  No  NA

- Does the agency's final decision document the agency's action(s) taken in response to the emergency grievance? (N/A if agency is exempt from this standard.)  Yes  No  NA

### 115.52 (g)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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a) BOP has an administrative procedure for dealing with inmate grievances regarding sexual abuse. This procedure is found in PS1330.18, Administrative Remedy Program, dated January 6, 2014.

b) This policy allows an inmate to submit a grievance regarding an allegation of sexual abuse at any time regardless of when the incident is alleged to have occurred. This policy also does not require an inmate to use an informal grievance process, or otherwise to attempt to resolve with staff, an alleged incident of sexual abuse.

The grievance process is also found in the inmate's handbook.

c) This same policy allows an inmate to submit a grievance alleging sexual abuse without submitting it to the staff member who is the subject of the complaint. It also requires the inmate grievance not be referred to the staff member who is subject of the complaint.

d) PS1330.18 also requires that a decision on the merits of any grievance or portion of a grievance alleging sexual abuse be made within 90 days of the filing of the grievance. If a decision cannot be made within 90 days and an extension is requested, inmates must be notified in writing of this request.

In the past twelve months, FCI Herlong has had zero grievances filed alleging sexual abuse.

e) In addition, PS1330.18 permits third parties, including fellow inmates, staff members, family members, attorneys, and outside advocates, to assist inmates in filing requests for administrative remedies relating to allegations of sexual abuse and to file such requests on behalf of inmates.

Inmates have the right to decline this type of assistance. If this occurs, PS 1330.18 requires facilities to document this decision.

In the past twelve months, FCI Herlong has had zero grievances filed alleging sexual abuse.

f) This policy also addresses filing an emergency grievance alleging that an inmate is subject to substantial risk of imminent sexual abuse. Facilities are required to respond to emergency grievances within 48 hours. Facilities are also required by policy to issue a decision within five days.

In the past twelve months, FCI Herlong received zero emergency grievances alleging substantial risk of imminent sexual abuse.

PS 1130.18 also addresses the limits a facility has in its ability to discipline an inmate for filing a grievance in bad faith.

In the past twelve months, no inmate has been disciplined for filing an emergency grievance.

Based on documentation review, FCI Herlong meets the following standard: Exhaustion of administrative remedies.

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

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

#### **115.53 (a)**

- Does the facility provide inmates with access to outside victim advocates for emotional support services related to sexual abuse by giving inmates mailing addresses and telephone numbers, including toll-free hotline numbers where available, of local, State, or national victim advocacy or rape crisis organizations?  Yes  No
- Does the facility provide persons detained solely for civil immigration purposes mailing addresses and telephone numbers, including toll-free hotline numbers where available of local, State, or national immigrant services agencies? (N/A if the facility *never* has persons detained solely for civil immigration purposes.)  Yes  No  NA
- Does the facility enable reasonable communication between inmates and these organizations and agencies, in as confidential a manner as possible?  Yes  No

#### **115.53 (b)**

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

#### **115.53 (c)**

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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a, b) BOP PS 5324.12 instructs the Institution PREA Compliance Manager, with the assistance of Psychology Services staff, to establish an agreement with community service providers to provide emotional support services related to sexual abuse. This policy also addresses the distinction between “confidential” communications and privileged communication. All communication to an outside emotional support service is monitored in a manner consistent with agency security practices. This information is provided to the inmates and will also be included in any MOU with community services.

This information is provided to inmates in the Sexually Abusive Behavior Prevention and Intervention pamphlet. This pamphlet is provided to inmates the day they arrive at FCI Herlong.

Most inmates report they were not aware of any victim advocate or crisis intervention services outside of FCI Herlong. However, most report if they wanted to find this information, they would contact Psychology Services.

While the Auditor selected the inmate, who reported sexual abuse to FCI Herlong, this inmate would not share with the Auditor they had made a report.

c) This same policy also requires facilities to maintain a MOU or other agreements with community service providers that are able to provide emotional support services related to sexual abuse to inmates.

FCI Herlong has an agreement in place with Lassen Family Services, Inc.

The PREA Compliance Manager states, “Information on victim advocates is in the inmate handbook. Health Services offers the advocate to inmates.”

Based on documentation review and interviews, FCI Herlong meets the following standard: Inmate access to outside confidential support services.

## Standard 115.54: Third-party reporting

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

### 115.54 (a)

- Has the agency established a method to receive third-party reports of sexual abuse and sexual harassment?  Yes  No
- Has the agency distributed publicly information on how to report sexual abuse and sexual harassment on behalf of an inmate?  Yes  No

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

a) BOP provides a method to receive third-party reports of inmate sexual abuse or sexual harassment. This information can be found on the BOP website at the following URL:  
[https://www.bop.gov/inmates/custody\\_and\\_care/sexual\\_abuse\\_prevention.jsp](https://www.bop.gov/inmates/custody_and_care/sexual_abuse_prevention.jsp)

Based on documentation review, FCI Herlong meets the following standard: Third-party reporting.

## OFFICIAL RESPONSE FOLLOWING AN INMATE REPORT

## Standard 115.61: Staff and agency reporting duties

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

### 115.61 (a)

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

#### 115.61 (b)

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

#### 115.61 (c)

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

#### 115.61 (d)

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

#### 115.61 (e)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

a) BOP policy (PS 5324.12 and Program Statement Standards of Employee Conduct) requires all staff to report immediately any knowledge or suspicion of sexual abuse or sexual harassment that occurred in the facility, any retaliation against inmates or staff who reported an incident, and any staff neglect.

All staff report they are mandated to report all knowledge and suspicion of sexual abuse and sexual harassment. They state if they do not report this information, they could lose their job or possibly be held criminally liable. Most staff mentioned possible prison time.

b) These same policies prohibit 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.

All staff report confidentiality is a must and required. They report they immediately notify their supervisor when they receive notification of an incident of sexual abuse or sexual harassment.

c) BOP PS 5324.12 requires all medical and mental health practitioners are required to report sexual abuse and inform inmates of the practitioner's duty to report and limitations to confidentiality.

Medical and mental health staff report they always provide informed consent at the beginning of services. Both medical and mental health staff interviewed advised they have made a report of sexual abuse. Both report this information was given to the Operations Lieutenant.

d) This policy also addresses reporting to the designated State or local services agency under applicable reporting laws if the victim of sexual abuse is under the age of 18 or considered a vulnerable adult.

FCI Herlong does not house individuals under the age of 18.

The National PREA Coordinator reports, "If this situation were to occur, the institution staff would report the allegation to designated state or local services agencies under the applicable mandatory reporting laws."

e) PS 5324.12 mandates all allegations of sexual abuse and sexual harassment, including third-party and anonymous reports, be referred to designated investigators.

The Warden and investigators all state every allegation is required to be referred for investigation.

Based on documentation review and interviews, FCI Herlong meets the following standard: Staff and agency reporting duties.

## **Standard 115.62: Agency protection duties**

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

#### **115.62 (a)**

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

a) When FCI Herlong learns that an inmate is subject to substantial risk of imminent sexual abuse, staff are to take immediate action to protect the inmate victim and implement protective measures without unreasonable delay.

This process is outlined in PS 5324.12 which requires staff to notify Operations Lieutenant immediately if the alleged perpetrator is another inmate. The Operations Lieutenant begins to immediately safeguard the inmate victim and notifies the PREA Compliance Manager. If the perpetrator is a staff member, the same process is followed.

BOP Agency Head states, "We immediately safeguard the inmate by separating him/her from the potential danger. Our actions vary depending on the severity of the threat. If the possible threat is by another inmate, we may change the inmate's housing assignment, work assignment, or possibly place the inmate in the Special Housing Unit. If the possible threat is from a staff member, other options exist in addition to these, to include a change in the staff member's work assignment or removal from the facility while the investigation is conducted."

The Warden states, "I expect my staff to remove that inmate, keeping a constant vigil, then contact the Operations Lieutenant."

All staff report they would pull the inmate aside to ensure safety, then notify their supervisor and Operations Lieutenant.

Based on documentation review and interviews, FCI Herlong meets the following standard: Agency protection duties.

### Standard 115.63: Reporting to other confinement facilities

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

### 115.63 (a)

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

### 115.63 (b)

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

### 115.63 (c)

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

### 115.63 (d)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

a, b, c, d) BOP has policy (PS 5324.12) requiring that, upon receiving an allegation that an inmate was sexually abused while confined at a Bureau facility, the Warden (or his designee) of the victim's current facility reports the allegation to the Warden of the identified institution. For non-Bureau secure privatized facilities, jails, juvenile facilities, and Residential Reentry Centers, the Warden will contact appropriate office of the facility and notify the Privatization Management or the Residential Reentry Management Branches as appropriate.

This notification must be done within 72 hours after receiving the allegation. Documentation of this notification is also a requirement.

In the past twelve months, FCI Herlong received zero reports of inmates being sexually abused while confined at another facility. During this same period, FCI Herlong received one allegation of sexual abuse from other facilities.

BOP Agency Head states, "Typically, other agencies make the referral directly to the institution, specifically to the Warden. On other occasions, the agencies contact the Bureau of Prisons National PREA Coordinator if they are unsure how to contact the institution directly. In these cases, the National PREA Coordinator will forward the referral directly to the Warden of the institution. If the notification does not go directly to the Warden of the institution, the staff who receive the notification immediately forward it to the Warden so that the allegation can be appropriately investigated. The Warden determines whether the allegation(s) can be investigated locally or if it should be referred to OIA. Each institution tracks referrals made to them by other facilities and/or agencies. Additionally, the National PREA Coordinator received one notification via email in 2019 from the PREA Coordinator at Grand Forks County Corrections in North Dakota of an allegation that reportedly occurred at one of our facilities. The email was forwarded to that facility for further investigation."

The Warden reports all allegations, no matter where they come from, are investigated in the same manner.

Based on documentation review and interviews, FCI Herlong meets the following standard: Reporting to other confinement facilities.

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

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

#### **115.64 (a)**

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

#### **115.64 (b)**

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

## Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

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

a) BOP has a first responder policy (PS 5324.12) for allegations of sexual abuse. This policy requires that, upon learning of an allegation that an inmate was sexually abused, the first custody staff member to respond shall be required to separate the alleged victim and abuser; preserve and protect any crime scene until appropriate steps can be taken to collect any evidence; if the abuse occurred within a time period that still allows for the collection physical evidence, requiring the alleged victim to not take any action that would destroy the evidence; the same for the abuser.

In the past twelve months, FCI Herlong received ten allegations of inmate sexual abuse. Each one of these allegations had custody staff as first responder.

All staff interviewed were able to discuss their responsibilities in responding to sexual abuse. Several staff members had a card they carried with them as a reminder of their responsibilities.

While the Auditor selected the inmate, who reported sexual abuse to FCI Herlong, this inmate would not share with the Auditor they had made a report.

b) This same policy also addresses when non-custody staff are the first responder in any sexual abuse allegations. Non-custody staff are required to request that the alleged victim not take any actions that could destroy physical evidence and notify custody staff.

In the past twelve months, non-custody staff were not first responders in a sexual abuse allegation.

Based on documentation review and interviews, FCI Herlong meets the following standard: Staff first responder duties.

## Standard 115.65: Coordinated response

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

#### 115.65 (a)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

a) FCI Herlong 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.

Based on documentation review, FCI Herlong meets the following standard: Coordinated response.

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

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

##### 115.66 (a)

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

##### 115.66 (b)

- Auditor is not required to audit this provision.

#### Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)

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

**Instructions for Overall Compliance Determination Narrative**

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a) BOP or any other governmental entity responsible for collective bargaining on BOP behalf has entered or renewed any collective bargaining agreement or other agreement since August 20, 2012, or since the last PREA audit, whichever is later.

The Auditor reviewed “Master Agreement” between Federal Bureau of Prisons and Council of Prison Locals, American Federation of Government Employees, dated July 21, 2014 – July 20, 2017. This agreement discussed employee discipline.

BOP Agency Head states, “Article 30(g) of the Master Agreement permits the agency to remove an employee from an institution when an allegation adversely affects the Agency’s confidence in the employee or the security of the institution. The employee may be removed from the institution setting “pending an investigation and resolution of the matter, in accordance with applicable laws, rules, and regulations.””

Based on documentation and interviews, FCI Herlong meets the following standard: Preservation of ability to protect inmates from contact with abusers.

**Standard 115.67: Agency protection against retaliation**

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

**115.67 (a)**

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

**115.67 (b)**

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

### 115.67 (c)

- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor the conduct and treatment of inmates or staff who reported the sexual abuse to see if there are changes that may suggest possible retaliation by inmates or staff?  Yes  No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor the conduct and treatment of inmates who were reported to have suffered sexual abuse to see if there are changes that may suggest possible retaliation by inmates or staff?  Yes  No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Act promptly to remedy any such retaliation?  Yes  No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor any inmate disciplinary reports?  Yes  No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor inmate housing changes?  Yes  No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor inmate program changes?  Yes  No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor negative performance reviews of staff?  Yes  No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor reassignments of staff?  Yes  No
- Does the agency continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need?  Yes  No

### 115.67 (d)

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

### 115.67 (e)

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

## 115.67 (f)

- Auditor is not required to audit this provision.

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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a) BOP has a policy (PS 5324.12) to protect all inmates and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other inmates and staff.

The PREA Compliance Manager is the designated staff member for monitoring retaliation.

b) BOP employs multiple protection measures, such as housing changes, or transfers for inmate victims or abusers, removal of alleged staff or inmate abusers from contact with victims and offering emotional support services when needed.

BOP Agency Head states, "Article 30(g) of the Master Agreement permits the agency to remove an employee from an institution when an allegation adversely affects the Agency's confidence in the employee or the security of the institution. The employee may be removed from the institution setting "pending an investigation and resolution of the matter, in accordance with applicable laws, rules, and regulations."

The PREA Compliance Manager states, "We definitely want to move the victim and perpetrator apart."

c, d, e) FCI Herlong monitors the conduct and treatment of inmates or staff who reported sexual abuse and of inmates who reported to have suffered sexual abuse to see if there are any changes that may suggest possible retaliation by inmates or staff. This includes periodic status checks and also checking on witnesses. This is all done in accordance with PS 5324.12.

In the past 12 months, there have been zero instances of retaliation reported.

BOP Agency Head states, "If an inmate or staff member who cooperated with an investigation expresses a fear of retaliation, that individual will be monitored in the same manner as the individual who reported the allegation and will be protected against such retaliation. This protection can take the form of changing housing or work assignments, transfers, changing work supervisors, or other actions that prevent retaliation."

Based on documentation review and interviews, FCI Herlong meets the following standard: Agency protection against retaliation.

## Standard 115.68: Post-allegation protective custody

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

#### 115.68 (a)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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a) BOP has a policy (PS5324.12) prohibiting the placement of inmates who have alleged to have suffered sexual abuse in involuntary segregated housing unless assessment of all available alternatives has been decided and that there is no available alternative means of separation from likely abusers.

In the past twelve months, no inmates who have alleged to have suffered sexual abuse have been placed in involuntary segregated housing.

The Warden states, "We would use involuntary segregation until alternative housing is found."

If an inmate at FCI Herlong was placed in involuntary segregated housing due to alleging to have suffered sexual abuse, they would still have access to religion, education, and the law library.

The Auditor interviewed staff who supervise segregated housing, also known as the Special Housing Unit (SHU). They report if an inmate were placed in the SHU involuntarily due being an alleged victim of sexual abuse, their access to programs would not be limited as other inmates placed in this type of housing unit. Inmates generally placed in the SHU are there for disciplinary reasons. They advise that this is per policy. When the Auditor asked if staff would document if access to education and the law library was restricted. Their response, "Yes. We document everything."

Inmates at FCI Herlong would only be placed in segregated housing until an alternative means of separation from their abuser can be obtained. The facility documents why placement in this housing unit was necessary. If the inmate remains in involuntary segregation, the facility does 30-day reviews to determine if placement needs to remain the same or if they can move them to an alternative form of housing.

Staff who supervised the SHU reports, "It always depends on the situation. Psychology Services would do the reviews."

There were no inmates placed in segregated housing on the days of the on-site portion of this audit who allege to have suffered sexual abuse.

Based on documentation review and interviews, FCI Herlong meets the following standard: post-allegation protective custody.

## INVESTIGATIONS

### Standard 115.71: Criminal and administrative agency investigations

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

#### 115.71 (a)

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

#### 115.71 (b)

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

#### 115.71 (c)

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

#### 115.71 (d)

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

#### 115.71 (e)

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

#### 115.71 (f)

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

#### 115.71 (g)

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

#### 115.71 (h)

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

#### 115.71 (i)

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

#### 115.71 (j)

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

#### 115.71 (k)

- Auditor is not required to audit this provision.

## 115.71 (I)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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a) BOP has policy (PS 5324.12) related to criminal and administrative investigations. Special Investigative Service (SIS) conduct administrative investigations on all inmate sexual abuse and sexual harassment allegations if the perpetrator is an inmate. The OIG and the FBI conduct all criminal investigations of inmate sexual abuse.

FBI's Domestic Investigations and Operations Guide (DIOG) outlining their investigative procedure is posted on the Internet.

The Auditor interviewed one administrative investigator. They advise they start an investigation "as promptly as possible" and usually within hours of being notified. They report they start by gathering all documentation to prepare for interviews.

b) BOP policy (PS 5324.12) requires that investigators be trained in conducting sexual abuse investigations in confinement settings. Currently FCI Herlong has fourteen trained administrative investigators.

The Auditor interviewed one administrative investigator. They were able to discuss the specialized training they received regarding sexual abuse investigations. They also report they were trained on interviews, evidence collection, criteria to substantiate an allegation and the use of Miranda vs. Gerrity.

The Auditor reviewed the following curriculum:

- Sexual Violence PREA
- Interviews and Union Issues
- Office of Internal Affairs – Conducting Interviews and Union Issues
- DOJ/OIG PREA Training

c) PS 5324.12 requires investigators to gather and preserve direct and circumstantial evidence including any available physical and electronic monitoring data. Investigators are required to interview the alleged victim, suspected perpetrators, and witnesses. They are also required to review prior complaints and reports of sexual abuse involving the suspected perpetrator.

Investigative staff report direct and circumstantial evidence they gather includes documentation, review video, listen to phone calls, and conduct interviews.

d) This same policy addresses compelled interviews when the quality of evidence appears to support criminal prosecution. This can only be accomplished after consulting with prosecutors.

Investigative staff report that if an administrative investigation reaches the point of compelled interviews, the investigator will reach out to the FBI to see how they want to proceed. They report the FBI may initiate an investigation at that point.

e) The credibility of an alleged victim, suspect, or witness shall be assessed on an individual basis. Polygraph examination or other truth-telling device are prohibited as a condition of moving forward with an investigation.

Investigative staff report credibility is assessed on an individual basis. They also report the use of polygraphs is prohibited.

f) PS 5324.12 outlines what information is to be included in an administrative investigation. This policy states the report should include an effort to determine whether staff action or inactions or failure to act contributed to the abuse; and shall be documented in written reports. These reports will include a description of the physical and testimonial evidence, the reasoning behind the credibility assessments and investigative facts and findings.

Both investigators report everything is documented in their reports.

g) Criminal investigations are also documented in report format and are required to have the same requirements as an administrative report.

h) Substantiated allegations of conduct that appear to be criminal are referred for prosecution. This will be done by OIG and FBI investigators.

There were no criminal investigations conducted at FCI Herlong in the past twelve months.

i) All written reports (administrative and criminal investigations) are retained as long as the alleged abuser is incarcerated or employed by the BOP, plus five years.

j) BOP ensures all investigations continue even with the departure of the alleged abuser or victim from employment with BOP or from confinement.

The investigator reports investigations only stop when all the facts are obtained, and a determination is made.

l) FCI Herlong SIS cooperates with all OIG and FBI investigations.

Investigators report they would fully cooperate with criminal investigators. They state they would serve as a support function.

The National PREA Coordinator states, “Our institution investigative staff and/or Office of Internal Affairs conduct the majority of investigations of allegations of sexual abuse. If OIG is conducting the investigation, they provide updates to the institution; at the conclusion of their investigation, they inform OIA of the outcome.”

The PREA Compliance Manager reports, “SIS keeps in touch with the FBI.”

Based on documentation review and interviews, FCI Herlong meets the following standard: Criminal and administrative agency investigations.

## Standard 115.72: Evidentiary standard for administrative investigations

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

#### 115.72 (a)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

a) BOP imposes a standard of preponderance of the evidence or a lower standard of proof when determining whether allegations of sexual abuse or sexual harassment are substantiated.

The investigator reports they use the preponderance of the evidence.

Based on documentation review and interviews, FCI Herlong meets the following standard: Evidentiary standards for administrative investigations.

## Standard 115.73: Reporting to inmates

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

### 115.73 (a)

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

### 115.73 (b)

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

### 115.73 (c)

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

### 115.73 (d)

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

### 115.73 (e)

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

### 115.73 (f)

- Auditor is not required to audit this provision.

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

a, b) BOP has policy (PS 5324.12) requiring that any inmate who alleges that they suffered sexual abuse in a directly operated BOP 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 BOP, OIG, or the FBI.

In the past twelve months, seven administrative investigations and zero criminal investigations were completed at FCI Herlong. Seven inmate notifications were made.

The Auditor reviewed seven examples of inmate notifications and found these notifications met the requirements of this standard.

The Special Investigative Services Lieutenant provides all notifications to inmates as required under this section.

c) PS 5324.12 also requires that following an inmate's allegation that a staff member has committed sexual abuse against the inmate, BOP subsequently informs the inmate of the investigative findings. The exception is if the finding was unfounded. BOP will also inform the inmate when the staff member is no longer posted in the inmate's housing unit; no longer employed by BOP; when the staff member is indicted and convicted on a charge related to sexual abuse.

d) This same policy also requires notification to the victim if the inmate abuser has been indicted or convicted on the charge of sexual abuse.

e) PS 5324.12 mandates inmate notification be documented.

In the past twelve months, seven notifications were made to inmates at FCI Herlong and documented. Based on documentation review, FCI Herlong meets the following standard: Reporting to Inmates.

## DISCIPLINE

### Standard 115.76: Disciplinary sanctions for staff

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

#### 115.76 (a)

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

#### 115.76 (b)

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

#### 115.76 (c)

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

#### 115.76 (d)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

a) BOP employees are subject to the Program Statement Standards of Employee Conduct, the Master Agreement, and employment-based laws, rules, and regulations.

b, c) Penalties for BOP employees who engaged in sexual abuse of an inmate are subject to the following penalties: up to life imprisonment for sexual abuse of inmates where force is used or threatened; administrative action, up to and including removal, for any inappropriate contact, sexual behavior, or relationship with inmates, regardless of whether such contact constitutes a prosecutable crime.

In the past twelve months, there have been no employees disciplined for violating the sexual abuse policy of BOP.

d) All termination of BOP employees for violations for agency sexual abuse or sexual harassment policies, or relationships but staff who would have been terminated if not for the resignation, shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies.

In the past twelve months, FCI Herlong has reported no employees to law enforcement or licensing boards following their terminations, or resignation prior to termination, for violating BOP sexual abuse or sexual harassment policies.

Based on documentation review, FCI Herlong meets the following standard: Disciplinary sanctions for staff.

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

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

#### **115.77 (a)**

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

#### **115.77 (b)**

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

## Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

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

a, b) Contractors and volunteers at BOP facilities are treated the same as employees when there is possible criminal prosecution.

Penalties for BOP employees who engaged in sexual abuse of an inmate are subject to the following penalties: up to life imprisonment for sexual abuse of inmates where force is used or threatened; administrative action, up to and including removal, for any inappropriate contact, sexual behavior, or relationship with inmates, regardless of whether such contact constitutes a prosecutable crime.

In the past twelve months, there have been no volunteers or contractors disciplined for violating the sexual abuse policy of BOP.

All terminations of BOP volunteers and contractors for violations for agency sexual abuse or sexual harassment policies, or relationships but volunteer and contractors who would have been terminated if not for the resignation, shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies.

In the past twelve months, FCI Herlong has reported no volunteers or contractors to law enforcement or licensing boards for violating BOP sexual abuse or sexual harassment policies.

The Warden reports any volunteer or contractor who is alleged to have sexually abused an inmate would not be allowed to have contact with that inmate until the investigation is complete. If the allegations are substantiated, they are banned from entering any BOP facility.

Based on documentation review and interviews, FCI Herlong meets the following standard: Corrective action for contractors and volunteers.

## Standard 115.78: Disciplinary sanctions for inmates

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

#### 115.78 (a)

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

#### 115.78 (b)

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

#### 115.78 (c)

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

#### 115.78 (d)

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

#### 115.78 (e)

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

#### 115.78 (f)

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

#### 115.78 (g)

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

#### Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

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

The disciplinary process for inmates is outlined in PS 5324.12 and in the inmate handbook.

a) Inmates at FCI Herlong are subject to disciplinary sanctions only pursuant to a formal disciplinary process following an administrative finding that the inmate engaged in inmate-on-inmate sexual abuse. Inmates are subject to disciplinary sanctions only pursuant to a formal disciplinary process following a criminal finding of guilt for inmate-on-inmate sexual abuse.

In the past twelve months, zero inmates had an administrative findings of inmate-on-inmate sexual abuse that have occurred at FCI Herlong.

There have been zero inmates with criminal findings of guilt for inmate-on-inmate sexual abuse that have occurred at FCI Herlong.

b) Sanctions are commensurate with the nature and circumstances of the abuse committed by the inmate.

Disciplinary process is outlined in the inmate handbook. The inmate handbook is available in English and Spanish.

c) The disciplinary process considers whether an inmate's mental disabilities or mental illness contributed to their behavior when determining the type of sanction, if any, should be imposed.

d) FCI Herlong offers therapy, counseling, other interventions designated to address and correct the underlying reasons or motivations for abuse. FCI Herlong does not require an inmate to participate in services to access other programs and benefits.

Staff from Psychology Services support this practice.

e) BOP will discipline inmates for sexual conduct with staff only upon finding that the staff member did not consent to such contact.

f) BOP prohibits disciplinary actions for a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred, even if the investigation does not establish evidence sufficient to substantiate the allegation.

g) BOP prohibits all sexual activity between inmates and will discipline inmates who engage in this activity.

Based on documentation review and interviews, FCI Herlong meets the following standard: Disciplinary sanctions for inmates.

## MEDICAL AND MENTAL CARE

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

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

#### 115.81 (a)

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

#### 115.81 (b)

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

#### 115.81 (c)

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

#### 115.81 (d)

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

#### 115.81 (e)

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

#### Auditor Overall Compliance Determination

- Exceeds Standard (*Substantially exceeds requirement of standards*)

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

### Instructions for Overall Compliance Determination Narrative

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

a, c) All inmates at FCI Herlong who have disclosed any prior sexual victimization during the risk screening interview are offered a follow-up-meeting with a medical or mental health practitioner. This is done in accordance with this standard and BOP PS 5324.12.

FCI Herlong administration report Psychology Services is responsible for completing follow-up on all inmates who are identified as victims of sexual abuse. All documentation on follow-up contacts is maintained in an electronic database accessible only by medical and psychology staff. Interviews with Psychology Services confirmed this practice.

Staff who are responsible for conducting the risk screening interview advise they always ask inmates who disclose prior victimization if they want to speak with Psychology Services. If the inmates say yes, they make a referral that day. While staff could not tell the Auditor a specific time frame on when inmates are seen after the referral, they both state it is "usually" within a few days.

The Auditor was unable to specifically select inmates for interview who have reported prior sexual victimization. No inmates reported notifying FCI Herlong of prior sexual victimization.

b) All inmates at FCI Herlong who have disclosed they have previously perpetrated sexual abuse during the risk screening interview are offered a follow-up meeting with a mental health practitioner.

Staff who are responsible for conducting the risk screening interview advise they always ask inmates who disclose they have previously perpetrated sexual abuse if they want to speak with Psychology Services. If the inmates say yes, they make a referral that day. When the Auditor asked if the timeframe for being seen by Psychology Services is different from those who disclose prior victimization, both staff report no. They state all referrals are treated the same.

Interviews with Psychology Services support comments made by staff. They state they always attempt to see any inmate within a few days, if they cannot see them the same day a referral is received.

d) All Information at FCI Herlong relating to sexual victimization or abusiveness that occurred in an institutional setting is strictly limited to medical and mental health practitioners.

FCI Herlong administration report all documentation on follow-up contacts with any inmate is maintained in electronic database accessible only by medical and psychology staff. If the inmate refuses treatment, the refusal is documented and placed in the Inmate Central File. Interviews with Psychology Services confirmed this practice.

e) Psychology Services obtain informed consent from inmates before reporting information about prior sexual victimization that did not occur in an institutional setting.

Psychology Services staff report they always inform inmates about their duty to report. FCI Herlong administration report there has not been any instances where consent was required before a report was made from Psychology Services.

There are no inmates at FCI Herlong who are under the age of 18.

Based on documentation review and interviews, FCI Herlong meets the following standard: Medical and mental health screening; history of sexual abuse.

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

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

#### 115.82 (a)

- Do inmate victims of sexual abuse receive timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by medical and mental health practitioners according to their professional judgment?  
 Yes  No

#### 115.82 (b)

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

#### 115.82 (c)

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

#### 115.82 (d)

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

### Auditor Overall Compliance Determination

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

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

### **Instructions for Overall Compliance Determination Narrative**

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a) Inmate victims at FCI Herlong receive timely, unimpeded access to emergency medical treatment and crisis intervention services. The nature and scope of these services are determined by mental health practitioners according to their professional judgement.

Medical staff provide services as soon as they are notified.

Medical staff are responsible for examinations, documentation, and treatment of inmate injuries arising from sexually abusive behaviors, including testing when appropriate for sexually transmissible infections (STI), including HIV. FCI Herlong is an all-male facility. Medical staff will not test for pregnancy.

Medical staff perform a physical injury assessment on any alleged inmate perpetrators.

Medical staff report the services they provide are very structured and follow policy.

Notification to Psychology Services is made by medical staff. Psychology Services report that while they follow policy, they can provide treatment according to their professional judgment.

b) In accordance with PS 5324.12, if no qualified medical or mental health practitioners are on duty at the time of a report or recent abuse, the Operations Lieutenant will take steps to make appropriate notifications so services can be started.

An interview with the facility investigator confirmed this practice.

c) Inmate victims of sexual abuse at FCI Herlong are offered timely information about and timely access to sexually transmitted infectious prophylaxis, in accordance with professionally accepted standards of care, when medically appropriate. FCI Herlong is male only facility. Information on emergency contraception will not be offered or discussed with victims of a sexual abuse.

Medical staff report this is "absolutely" done regarding information on STIs.

While the Auditor selected the inmate, who was identified as reporting sexual abuse to FCI Herlong, this inmate would not confirm they made a report.

d) BOP policy (PS 5324.12) state treatment services provided to victims of sexual abuse will be offered at no cost.

Based on documentation review and interviews, FCI Herlong meets the following standard: Access to emergency medical and mental health services.

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

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

### 115.83 (a)

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

### 115.83 (b)

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

### 115.83 (c)

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

### 115.83 (d)

- Are inmate victims of sexually abusive vaginal penetration while incarcerated offered pregnancy tests? (N/A if “all-male” facility. *Note: in “all-male” facilities, there may be inmates who identify as transgender men who may have female genitalia. Auditors should be sure to know whether such individuals may be in the population and whether this provision may apply in specific circumstances.*)  Yes  No  NA

### 115.83 (e)

- If pregnancy results from the conduct described in paragraph § 115.83(d), do such victims receive timely and comprehensive information about and timely access to all lawful pregnancy-related medical services? (N/A if “all-male” facility. *Note: in “all-male” facilities, there may be inmates who identify as transgender men who may have female genitalia. Auditors should be sure to know whether such individuals may be in the population and whether this provision may apply in specific circumstances.*)  Yes  No  NA

### 115.83 (f)

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

### 115.83 (g)

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

## 115.83 (h)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

All practices discussed under this standard are done in accordance with BOP PS 5324.12.

a) FCI Herlong offers medical and mental health evaluations and, as appropriate, treatment to all inmates who have been victimized by sexual abuse.

Medical staff are responsible for examinations, documentation, and treatment of inmate injuries arising from sexually abusive behaviors, including testing when appropriate for sexually transmissible infections (STI), including HIV. FCI Herlong is an all-male facility. Medical staff will not test for pregnancy.

Medical staff perform a physical injury assessment on any alleged inmate perpetrators.

Medical staff report the services they provide are very structured and follow policy.

Notification to Psychology Services is made by medical staff. Psychology Services report that while they follow policy, they can provide treatment according to their professional judgment.

b) The evaluation and treatment of victims at FCI Herlong includes, as appropriate, follow-up services, treatment plans, and when necessary, referrals for continued care following their transfer to another BOP facility.

Medical staff report, if the victim goes out to the hospital for a forensic exam, follow-up services are provided according to orders given by the hospital. They also report they will continue to see the inmate until such time the inmate has completed his treatment plan.

All inmate medical and mental health documentation is stored in an electronic database. This information will be accessible to other BOP facilities if the inmate is transferred.

c) Health Services and Psychology Services both state the level of care they provide is consistent, if not better than, the community level of care.

d, e) N/A FCI Herlong is a male only facility.

f) Inmate victims at FCI Herlong are offered tests for sexually transmitted infections as medically appropriate.

Medical staff are responsible for examinations, documentation, and treatment of inmate injuries arising from sexually abusive behaviors, including testing when appropriate for sexually transmissible infections (STI), including HIV. FCI Herlong is an all-male facility. Medical staff will not test for pregnancy.

g) BOP policy (PS 5324.12) state treatment services provided to victims of sexual abuse will be offered at no cost.

h) FCI Herlong attempts to conduct a mental health evaluation of all known inmate-on-inmate abusers within 60 days of learning of such abuse history and offers treatment when deemed appropriate.

Psychology Services staff report they do not wait to meet with the inmate-on-inmate abusers. They add while policy states to meet within 60 days, they usually meet with them the same day they are notified unless it is a weekend or holiday. They also state inmates have the right to refuse treatment. If they refuse, this information is documented.

Based on documentation review and interviews, FCI Herlong meets the following standard: Ongoing medical and mental health care for sexual abuse victims and abusers.

## DATA COLLECTION AND REVIEW

### Standard 115.86: Sexual abuse incident reviews

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

#### 115.86 (a)

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

#### 115.86 (b)

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

#### 115.86 (c)

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

#### 115.86 (d)

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

#### 115.86 (e)

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

a) FCI Herlong 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.

BOP PS 5324.12 directs the Institution Executive Staff to review the incident to assess the facility's response to the allegation if the case is determined to be unsubstantiated. If the case is substantiated, after the review from Institution Executive Staff, a copy of the report is forwarded to the Regional Director through the Regional PREA Coordinator.

In the past twelve months, FCI Herlong has conducted sexual abuse incident reviews on ten administrative investigations with a finding of substantiated or unsubstantiated.

b) FCI Herlong ordinarily conducts the sexual abuse incident review within 30 days after the conclusion of the investigation. This is done in accordance with BOP PS 5324.12.

In the past twelve months, FCI Herlong as conducted sexual abuse incident reviews on ten administrative investigations with a finding of substantiated or unsubstantiated.

c) BOP PS 5324.12 mandates the incident review team should include Executive Staff, investigators, medical and mental health practitioners. The review team also includes input from the local Union President, or their designee. The Union representative is provided a copy of the draft report and can make recommendations. The review team has the discretion on whether the Union's recommendations are accepted.

d, e) The review team at FCI Herlong prepares a report of its findings and includes any recommendations for improvement, and submits the report, with possible recommendations, to the Warden and the PREA Compliance Manager.

Recommendations are based on whether the team determines the incident was motivated by race, religion, gender identification, gender orientation, and by other group dynamics. The review team will examine areas where the incident occurred to assess camera placement, blind spots. They also consider staffing levels.

Both the Warden and PREA Compliance Manager reports recommendations from the review team will be implemented where possible.

BOP facilities will comply with collective bargaining agreements in implementing changes or programs.

Based on documentation review and interviews, FCI Herlong meets the following standard: Sexual abuse incident review.

## Standard 115.87: Data collection

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

#### 115.87 (a)

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

#### 115.87 (b)

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

#### 115.87 (c)

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

#### 115.87 (d)

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

#### 115.87 (e)

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

#### 115.87 (f)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

a, c) BOP collects accurate, uniform data for every allegation of sexual abuse at facilities it directly operates using a standardized instrument and set definitions. The BOP collects, 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.

This includes SIS data (investigative information), Office of Internal Affairs Data, Inmate Data, and SENTRY Data.

The Information, Policy, and Public Affairs Division collects and reports on the data used in the Bureau of Justice Statistics Survey of Sexual Violence.

The Auditor reviewed the Annual PREA Reports from 2013 – 2018. These reports meet the requirements of this standard and BOP policy.

b) The National PREA Coordinator, with the assistance of the Regional PREA Coordinators, aggregates, and reviews data from all sources annually.

d) BOP maintains, reviews, and collects data as needed from all available incident-based documents, including reports, investigative files, and sexual abuse incident reviews.

The Institution PREA Compliance Manager ensures the data collected on sexual abuse for inmate-on-inmate cases is forwarded to his/her respective Regional PREA Coordinator annually. The National PREA Coordinator ensures the information is provided for purposes of agency reporting.

e) BOP also obtains incident-based and aggregated data from every private facility with which it contracts for the confinement of its inmates.

f) Upon request, the BOP will provide all data from the previous calendar year to the Department of Justice no later than June 30.

Based on review of documentation, FCI Herlong meets the following standard: Data collection.

## Standard 115.88: Data review for corrective action

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

#### 115.88 (a)

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

#### 115.88 (b)

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

### 115.88 (c)

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

### 115.88 (d)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

a, b, c, d) The BOP reviews data collected and aggregated pursuant to 115.87 to assess and improve the effectiveness of its sexual abuse prevention, detection, response policies and training. This information is placed in the annual report.

The annual report includes a comparison of the current year's data and corrective actions with those from prior years. This report provides an assessment of BOP progress in addressing sexual abuse. This report is made readily available to the public through its website. There are no personal identifiers in this report.

The Auditor reviewed the Annual PREA Reports from 2013 – 2018. These reports meet the requirements of this standard and BOP policy.

The 2020 Annual report is located at this URL:

[www.bop.gov/inmates/custody\\_and\\_care/docs/cy2020\\_annual\\_prea\\_report.pdf](http://www.bop.gov/inmates/custody_and_care/docs/cy2020_annual_prea_report.pdf)

The BOP Agency Head states, "If the incident-based sexual abuse data shows patterns, such as the LGBTI inmates being targeted or a significant number of assaults occurring in a particular area of an institution, then our policies, procedures, or training may be modified. For example, we noted that almost 38% of "Substantiated" cases in calendar year 2018 involved inmate witnesses. This resulted in continued emphasis during inmate education of the zero-tolerance policy and reporting incidents of sexually abusive behavior to staff when they are observed. Additionally, 45% of perpetrators in "Substantiated" cases admitted to all or some part of the sexually abusive behavior. This was notable

and was attributed to both inmate witnesses providing details to investigators and investigators receiving training in conducting thorough investigations for evidence that could not be disputed. The annual report for the prior calendar year is reviewed by me prior to being placed on our public website.”

The National PREA Coordinator states, “The data is reviewed and compiled into a report that is issued to the Director annually. The agency prepares an annual report that contains this information, and it is made public on our website. The Bureau complies with FOIA and all other applicable laws, rules, and regulations. No information that identifies victims or perpetrators is included in the report, nor is any information that could potentially threaten the security of an institution. If information needs to be redacted, the nature of the redacted material would be indicated.”

Based on documentation review, FCI Herlong meets the following standard: Data review for corrective action.

## Standard 115.89: Data storage, publication, and destruction

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

#### 115.89 (a)

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

#### 115.89 (b)

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

#### 115.89 (c)

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

#### 115.89 (d)

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

### Auditor Overall Compliance Determination

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

## Instructions for Overall Compliance Determination Narrative

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

a) BOP ensures all incident-based and aggregated data is securely retained.

The National PREA Coordinator states, "The agency complies with FOIA and all other applicable laws, rules, and regulations. Investigative, psychological, and medical data are securely maintained. The annual report does not contain identifying information."

b) BOP policy (PS 5342.12) requires that aggregated sexual abuse data from its directly operated facilities and those it contracts with be made readily available to the public, at least annually, through its website.

The 2020 Annual report is located at this URL:

[www.bop.gov/inmates/custody\\_and\\_care/docs/cy2020\\_annual\\_prea\\_report.pdf](http://www.bop.gov/inmates/custody_and_care/docs/cy2020_annual_prea_report.pdf)

c) The BOP annual report does not contain any personal identifiers.

The National PREA Coordinator states, "The Bureau complies with FOIA and all other applicable laws, rules, and regulations. No information that identifies victims or perpetrators is included in the report, nor is any information that could potentially threaten the security of an institution. If information needs to be redacted, the nature of the redacted material would be indicated."

d) BOP maintains sexual abuse data collected pursuant to 115.87 for at least 10 years after the date of the initial collection unless, Federal, State, or local law requires otherwise.

Based on documentation review and interviews, FCI Herlong meets the following standard: Data storage, publication, and destruction.

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

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

- a) During the prior three-year audit period, BOP ensured each of their facilities was audited at least once.
- b) This is the second year of the current audit cycle, BOP ensured at least one-third of their facilities was audited during the first year of the current audit cycle.
- h) The Auditor had access to, and the ability to observe, all areas of FCI Herlong.
- i) The Auditor was permitted to request and receive copies of any relevant documents (including electronically stored information) needed to complete the audit.
- m) The Auditor was permitted to conduct private interviews with inmates and staff.
- n) Inmates permitted to send confidential information or correspondence to the Auditor in the same manner as if they were communicating with legal counsel. The Auditor received no letters from FCI Herlong inmates.

Based on the evidence provided through policy, staff and inmate interviews, and documentation review, FCI Herlong is found to have met the standard for frequency and scope of audit.

## 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. The review period is for prior audits completed during the past three years PRECEDING THIS AUDIT. The pendency of any agency appeals pursuant to 28 C.F.R. § 115.405 does not excuse noncompliance with this provision. (N/A if there have been no Final Audit Reports issued in the past three years, or in the case of single facility agencies that there has never been a Final Audit Report issued.)  Yes  No  NA

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

*The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's*

*conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.*

FCI Herlong believes incarcerated individuals have the right to be free from sexual abuse and sexual harassment. This zero-tolerance culture is evident in the policies of the agency, the actions of FCI Herlong leadership when potential cross-gender viewing was found as well as the knowledge the staff demonstrated of PREA. Staff was able to articulate the agency's coordinated response to sexual abuse and harassment.

Inmates were able to explain how to report incidents of sexual abuse and harassment and were able to discuss how they were exposed to PREA education upon intake. Most inmates reported they knew that opposite gender staff announced themselves at the beginning of each shift.

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

Interviews with specialized staff were completed and the results were positive and supported the zero-tolerance culture. Each knew their role and responsibilities as it pertains to PREA compliance and documentation. They articulated the coordinated response and the expectations that staff would follow all policies.

FCI Herlong was found to be compliant with all PREA standards.

# AUDITOR CERTIFICATION

I certify that:

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

## Auditor Instructions:

Type your full name in the text box below for Auditor Signature. This will function as your official electronic signature. Auditors must deliver their final report to the PREA Resource Center as a searchable PDF format to ensure accessibility to people with disabilities. Save this report document into a PDF format prior to submission.<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.

Elisabeth (Lisa) Copeland

June 10, 2021

**Auditor Signature**

**Date**

<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.