

## Prison Rape Elimination Act (PREA) Audit Report Juvenile Facilities

Interim       Final

**Date of Report**    July 26, 2021

### Auditor Information

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<b>Company Name:</b> Click or tap here to enter text.	
<b>Mailing Address:</b> PO Box 110993	<b>City, State, Zip:</b> Aurora, CO 80042-0993
<b>Telephone:</b> 720-371-2172	<b>Date of Facility Visit:</b> May 18, 2021

### Agency Information

<b>Name of Agency</b> Maryland Department of Juvenile Services		<b>Governing Authority or Parent Agency (If Applicable)</b> Not applicable	
<b>Physical Address:</b> 217 East Redwood Street		<b>City, State, Zip:</b> Baltimore, MD 21202	
<b>Mailing Address:</b> Same as above		<b>City, State, Zip:</b> Same as above	
<b>Telephone:</b>		<b>Is Agency accredited by any organization?</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
<b>The Agency Is:</b>	<input type="checkbox"/> Military	<input type="checkbox"/> Private for Profit	<input type="checkbox"/> Private not for Profit
<input type="checkbox"/> Municipal	<input type="checkbox"/> County	<input checked="" type="checkbox"/> State	<input type="checkbox"/> Federal

**Agency mission:**    By law, DJS is a child-serving agency responsible for assessing the individual needs of referred youth and providing intake, detention, probation, commitment, and after-care services.

**Agency Website with PREA Information:**    www.djs.maryland.gov

### Agency Chief Executive Officer

<b>Name:</b> Sam Abed	<b>Title:</b> Secretary
<b>Email:</b> Sam.Abed@maryland.gov	<b>Telephone:</b> 410-230-3101

### Agency-Wide PREA Coordinator

<b>Name:</b> Aaron Keech	<b>Title:</b> PREA Coordinator
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<b>Email:</b> Aaron.Keech@maryland.gov	<b>Telephone:</b> 240-609-7386
<b>PREA Coordinator Reports to:</b> Jeffrey Kessler, Deputy Inspector General	<b>Number of Compliance Managers who report to the PREA Coordinator</b> 12

**Facility Information**

<b>Name of Facility:</b> Thomas J.S. Waxter Children's Center
<b>Physical Address:</b> 375 Red Clay Road
<b>Mailing Address (if different than above):</b> Laurel, Maryland 20724
<b>Telephone Number:</b> 301-362-6160

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

**Facility Mission:** Thomas J.S. Waxter Children Center is an all-female detention center. It is our mission to provide a high standard of services to include education, mental health, substance abuse and recreation within a safe and secure environment

**Facility Website with PREA Information:** [www.djs.maryland.gov](http://www.djs.maryland.gov)

**Is this facility accredited by any other organization?**  Yes  No

**Facility Administrator/Superintendent**

<b>Name:</b> Lisa Steeple	<b>Title:</b> Superintendent
<b>Email:</b> Lisa.Steeple@maryland.gov	<b>Telephone:</b> 301-362-6161

**Facility PREA Compliance Manager**

<b>Name:</b> Lisa Steeple	<b>Title:</b> Superintendent
<b>Email:</b> Lisa.Steeple@maryland.gov	<b>Telephone:</b> 301-362-6161

**Facility Health Service Administrator**

<b>Name:</b> Keva Jackson	<b>Title:</b> Executive Director for Somatic Health
<b>Email:</b> Keva.Jackson@maryland.gov	<b>Telephone:</b> 410-230-3256

**Facility Characteristics**

<b>Designated Facility Capacity:</b> 35	<b>Current Population of Facility:</b> 11
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Number of residents admitted to facility during the past 12 months		69
Number of residents admitted to facility during the past 12 months whose length of stay in the facility was for 10 days or more:		33
Number of residents admitted to facility during the past 12 months whose length of stay in the facility was for 72 hours or more:		48
Number of residents on date of audit who were admitted to facility prior to August 20, 2012:		0
Age Range of Population:	13-21 years old	
Average length of stay or time under supervision:		23 days
Facility Security Level:		Hardware secure
Resident Custody Levels:		Detention
Number of staff currently employed by the facility who may have contact with residents:		76
Number of staff hired by the facility during the past 12 months who may have contact with residents:		7
Number of contracts in the past 12 months for services with contractors who may have contact with residents:		4
<b>Physical Plant</b>		
Number of Buildings: 6		Number of Single Cell Housing Units: 2
Number of Multiple Occupancy Cell Housing Units:		2
Number of Open Bay/Dorm Housing Units:		1
Number of Segregation Cells (Administrative and Disciplinary):		0
<p><b>Description of any video or electronic monitoring technology (including any relevant information about where cameras are placed, where the control room is, retention of video, etc.):</b></p> <p>Maryland DJS has installed cameras throughout the facility in the interior and exterior parts of the facility. Waxter has fifty-two (52) cameras installed throughout the facility that is monitored from Master Control where movement is also managed. Camera images are retained for up-to-90 days. The facility administrators are required to record critical incidents within 24 hours but no later than 72 hours.</p>		
<b>Medical</b>		
Type of Medical Facility:		Facility clinic
Forensic sexual assault medical exams are conducted at:		UM Baltimore Washington Medical Center
<b>Other</b>		
Number of volunteers and individual contractors, who may have contact with residents, currently authorized to enter the facility:		85
Number of investigators the agency currently employs to investigate allegations of sexual abuse:		11

# Audit Findings

## Audit Narrative

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

### Introduction

The Prison Rape Elimination Act (PREA) onsite audit of the Thomas J.S. Waxter Children's Center (Waxter) was conducted on May 18, 2021. Waxter is located at 375 Red Clay, Laurel, Maryland, 20724. The audit was conducted by Natasha Mitchell from Henderson, Colorado who is a U.S. Department of Justice Certified PREA Auditor for juvenile and adult facilities. The auditor conducted the audit as a single auditor with one (1) non-certified support staff member. The non-certified support staff member arranged the auditor travel plans, organized the audit documents, filled out the first three pages of the audit report, and reviewed the drafted report. The contract was signed between the Auditor and the Maryland Department of Juvenile Services (DJS) on January 17, 2020, and began communicating with the PREA Coordinator soon after. This is Waxter's third PREA audit since the implementation of the PREA standards.

### Audit Methodology Pre-Onsite Audit Phase

Prior to the onsite audit, the auditor-initiated discussions concerning the logistics for preparing for the onsite audit as well as the presence of the auditor onsite. Additional communication involved both the PREA Coordinator and the designated PREA Compliance Manager.

### Notice of Audit Posting

The audit notices (English and Spanish) were forwarded to the PREA Coordinator on March 6, 2021. Pictures were forwarded to the auditor via email on April 5, 2021 to verify that the facility had posted the notices and met the six week deadline. The audit notices were posted throughout the facility, in places visible to all residents and staff, including on housing units. Further verification of the notice's placement was made through observation during the onsite tour. The audit notices include a statement regarding confidentiality of resident and staff correspondence with the auditor. No correspondence was received during any phase of the audit.

The Pre-Audit Questionnaire and supporting documentation was received on April 16, 2021. The Pre-Audit Questionnaire has a completion date of April 5, 2021. The documentation was provided to the auditor with a password protected flashdrive. The auditor reviewed the Pre-Audit Questionnaire, policy, procedures, and supporting documentation on April 16, 2021. Using the Auditor Compliance Tool and Checklist of Documentation, the auditor's initial analysis and review of the information determined there was no immediate need for additional information prior to the onsite audit.

### Requests of Facility Lists

Waxter provided the following information for interview selections and document sampling:

Complete resident roster	A resident roster for all residents at Waxter was provided for May 18, 2021.
Residents with disabilities	0
Residents who are Limited English Proficient (LEP)	0
LGBTQI residents	2
Residents in segregated housing	0
Residents in isolation	0
Residents who reported sexual abuse	0
Residents who reported sexual victimization during risk screening	1
<b>Waxter Staff Rosters</b>	
Complete Staff roster	A complete staff roster for the staff scheduled to work during the onsite audit was provided on May 18, 2021.
Specialized Staff	12
Contractors who have contact with residents	2
All volunteers who have contact with residents	1
All grievances/allegations made in the previous 12 months	0
All allegations of sexual abuse and sexual harassment reported for investigation in the previous 12 months	3
<b>External Contacts</b>	
The following external contacts were made:	
Advocacy and SAFE/SANE Programs	YWCA of Annapolis & Anne Arundel
UM Baltimore Washington Medical Center	The auditor contacted the SAFE Coordinator at 410-787-4565.

### Research

- A Google search and creating a Google alert for news articles shows there were no reports regarding the Waxter juvenile facility during the previous 12 months.

### Maryland Mandatory Reporter State Statute

A. Individuals who are not mandated reporters and have reason to believe that a child has been abused or neglected shall immediately notify a local law enforcement agency or a local department by any available means.

B. A mandated reporter shall report suspected child abuse or neglect that occurred in Maryland:

(1) By oral report immediately after the contact or event that revealed the suspected child abuse or neglect to the local department or law enforcement agency in the jurisdiction where the suspected child abuse or neglect occurred; and

(2) By written report within 48 hours of the contact or event that revealed the suspected child abuse or neglect to the local department and the States Attorney's Office in the jurisdiction where the suspected child abuse or neglect occurred.

C. A mandated reporter shall report suspected child abuse or neglect that occurred outside of Maryland to any local department in accordance with Family Law Article, §5-705.1, Annotated Code of Maryland.

D. Upon request, a local department shall provide a mandated reporter with a supply of forms created by the Administration that the mandated reporter may use in making a written report.

E. An employee of a local department shall immediately forward any report of suspected child abuse or neglect received in the course of employment, however communicated, to CPS to screen the report.

F. A reporter shall include in a report of suspected child abuse or neglect as much of the following information that is available:

(1) The names and home addresses of the alleged victim, the alleged victims parents, and any other individual responsible for the alleged victims care;

(2) The present location of the alleged victim;

(3) The alleged victims age;

(4) The names and ages of other children in the alleged victims home or in the care of the alleged maltreater;

(5) The specific nature and extent of injury, sexual conduct, or failure to provide proper care and attention;

(6) Previous child abuse or neglect of the alleged victim or by the alleged maltreater;

(7) Other information that might be of assistance to the local department in determining:

(a) The cause of injury or of a failure to provide proper care and attention;

(b) The identity of individuals responsible for the alleged child abuse or neglect; and

(c) The safety of the alleged victim and risk of future maltreatment; and

(8) In the case of suspected child abuse or neglect involving a mental injury:

(a) A description of the substantial impairment of the child's mental or psychological ability to function;

(b) An explanation of why the reporter believes the mental injury is attributable to maltreatment;

(c) Any observations or knowledge about the intent or recklessness of the alleged maltreater in causing a mental injury.

G. The failure or inability of a reporter to provide the information in §F of this regulation will not be grounds for screening out the report unless the information provided is insufficient to allow the local department to locate or identify the alleged victim.

H. An individual is not required to report suspected child abuse or neglect in violation of:

(1) The attorney-client privilege under Courts and Judicial Proceedings Article, §9-108, Annotated Code of Maryland including communications:

(a) In confidence by a client to the client's attorney, relating to the representation of the client, or

(b) That would violate a constitutional right to assistance of counsel; or

(2) The privilege in Courts and Judicial Proceedings Article, §9-111, Annotated Code of Maryland, pertaining to communications to a minister of the gospel, clergyman, priest, or rabbi of an established religion received in a professional capacity under circumstances where the professional is bound to maintain the confidentiality of that communication under canon law, religious doctrine, or practice.

## **Onsite Audit Phase**

### **Entrance Briefing**

An entrance meeting was an informal process that included the participation of the Superintendent, PREA Coordinator, an Office of Inspector General (OIG) investigator, and the auditor. The attendees introduced themselves, the audit schedule was discussed; and immediately following the entrance meeting the auditor interviewed two (2) Resident Advisors from the overnight shift. At the conclusion of the interviews the auditor toured the facility and was accompanied by the Superintendent, Assistant Superintendent, PREA Coordinator, and OIG investigator.

### **Site Review**

The auditor was allowed to access and observe all areas of the facility. Waxter has one (1) building and three (3) modular buildings that are designated as the school and classrooms. Waxter has three (3) residential housing units, one unit is currently offline. Two of the housing units are single cell and one unit is multiple occupancy. In addition to the housing units, there is a dining hall, medical clinic, intake area, laundry room, classrooms, recreation yard, master control, and visitor main entrance. The resident population count on the first day of the onsite audit was fifteen (15).

### **Processes and areas observed**

On the day of the onsite audit the facility admitted two residents. The auditor had the opportunity to observe the intake process and witnessed the intake staff member verbally provide the resident with PREA information at the beginning of the intake process. The resident then received additional information by watching the PREA education. The auditor also gathered information about the intake process through interviews with specialized staff and residents. PREA audit notices, zero tolerance posters, 2-1-1 hotline information, and how to contact advocacy centers and the local CPS hotlines were posted and visible for the resident's. Placement of cameras were observed and the Superintendent reported the facility has fifty-two (52) cameras posted on the internal and external areas of the facility. The auditor was able to access the master control area and determined the facility had adequate camera coverage. The auditor observed residents in classrooms participating in school; and security staff positioned in the classrooms and hallway to provide additional supervision.

During the tour the Superintendent explained the intake procedure and shower procedures; and staff supervision in the school, classrooms and on the units. Additionally, the auditor did not have an opportunity to observe the staff make cross gender announcements; however, the resident interviews indicated that the male staff consistently announce themselves when entering the housing units.

During the tour, the auditor tested the facility GTL phones which is the phone system that is used by the residents to call the 2-1-1 reporting hotline. The system was not working per the instructions and the auditor was unable to access the hotline during the tour. The PREA Coordinator as well as the

executive leadership team worked to problem solve this issue during the report writing phase and provided the auditor with documentation that demonstrated the hotline system was working as intended.

**Specific area observations**

There are three (3) residential housing units that serve as living units, which are all single occupancy cell housing units. The cells are equipped with a toilet that is accessible to the resident as needed. The units are equipped with shower stalls with shower curtains that provide the residents with adequate privacy. Staff and resident interviews indicate all of the residents are secured in their room during showers and one resident is allowed out at a time. While the resident is in the shower the staff member is standing at the door providing supervision. Additionally, the interviews indicate showers are supervised by female staff only.

The intake area for new intakes are completed in a separate area from the living units. The intake area and the search and shower area provide adequate privacy to allow the residents to disclose as much personal information that they feel comfortable disclosing.

The auditor observed staff presence in every area that the residents were programming at the time. Adequate staff supervision and camera placements seem to mitigate blind spots and assist with providing a safe and secure facility.

**Interviews**

Staff interviews were conducted in the facility conference room located in the administration building. Interviews with the residents were conducted in the library, which was located in the school building. The location provided privacy and was centrally located to minimize disruption to programming. Specialized staff were selected based on their respective duties in the facility. Ten (10) randomly selected staff from every shift and unit was interviewed using the random staff interview protocol. The auditor interviewed ten (10) residents. All of the interviewed residents reported feeling safe. At the time of the onsite audit there were two (2) residents who identified as LGBTQI; and no resident was housed in isolation/seclusion and no one made a sexual abuse or sexual harassment allegation.

<b>Interviews Protocols</b>	<b>Number of Interviews</b>
Agency Head	1
Superintendent/PREA Compliance Manager	1
PREA Coordinator	1
Medical Staff	2
Mental Health Staff	1
Intake Staff	1
Volunteer	0
Investigation Staff	2
Administrative (Human Resources) Staff	1
Intermediate or Higher-level Staff (Unannounced rounds)	2
SAFE and SANE	1
Staff who supervise residents in isolation	0
Staff on the Incident Review Team	3
Designated staff member charged with monitoring retaliation	2
Random sample of Staff	10
Random sample of Residents	7



Resident identified as lesbian, gay, bisexual, transgender or intersex	2
Resident who reported a sexual abuse	0
Resident with an identified disability or limited English speaking	0
Resident in isolation	0
Residents who disclosed prior sexual victimization during risk screening	1
Total Number of Staff Interviews	28
Total Number of Resident Interviews	10
Total Number of Interviews	38

### Exit Briefing

An exit briefing was conducted with the Superintendent, Assistant Superintendent, Director of Group Life, Case Management Specialist Supervisor, PREA Coordinator, and the OIG Investigator; and the Deputy Secretary and Executive Director of Committed Facilities joined the exit briefing via telephone. The auditor discussed the takeaways from the interviews, the facility tour, and the reviewed documents. The auditor identified the following standards that will require additional attention. The standards included: 115.351 (eg., 2-1-1 hotline) and 115.371, which required adding language that would require the OIG to continue an investigation if a reporter recanted their initial statement.

## 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 Thomas J. S. Waxter Children’s Center opened in 1963. Located in Anne Arundel County, Waxter serves as a 42 bed secure detention facility for female youth who are waiting to go to court or be placed in a treatment facility. Waxter primarily serves youth from the Baltimore City, Baltimore County, Anne Arundel County, Howard County, Harford County and Carrol County. Other youth detained from other jurisdictions are typically pending transfers to nearby committed placements, special cases and/or disciplinary transfers from other DJS detention facilities.

The average age is between 13-18 years old although juvenile jurisdiction could remain until the age of 21. The detention facility has an intake area, a medical area staffed twenty four hours, an educational department providing six (6) hours of education five (5) days a week, kitchen and dining area providing three (3) meals a day, indoor and outdoor recreation areas and three (3) units.

The Thomas J. S. Waxter Children’s Center program is designed to meet the needs of detained youth. Through the DJS vision statement of “*Successful Youth, Strong Leaders, Safer Communities*” this facility believes in challenging youth daily to change their behaviors and ways of thinking. The facility staff accepts the responsibility of creating a safe and secure environment for the youth under their care.

Upon admission, youth begin the orientation process and are expected to complete the Massachusetts Youth Screening Instrument (MAYSI), a mental health assessment, the Substance Abuse Subtle Screening Inventory (SASSI), a substance and alcohol assessment. The youth complete a Vulnerability Assessment Instrument to determine risk of victimization and/or sexually aggressive behavior.

All youth at risk for an out of home placement receive diagnostic evaluations conducted by the Multi-disciplinary Assessment Staffing Team (MAST). This team works in conjunction with the community case manager, youth and family to determine an appropriate court recommendation for the youth. Youth are provided both individual and group counseling to prepare youth for placement or return to the community. Facility Case Managers maintain contact with parents, community case managers, public defenders, and court officials as necessary. In addition to treatment, youth receive daily recreation, holiday programming, and special events. Recreation activities such as Changing Habits and Making Progressive Strides (C.H.A.M.P.S) sports leagues are used for incentive and a reward system in addition to activities planned on site at the facility.

In 2013, the Maryland State Department of Education (MSDE) assumed responsibility for the educational services and began providing accredited academic services. The Education Program offers all of the basic courses in areas of Math, Science, Social Studies, English, Career Research Development and Office Systems Management. Students who qualify are able to take the GED. All youth admitted to the facility are given the BASI test (Basic Achievement Skills Inventory) in verbal and math. These scores are used to develop an individual learning plan for them. Youth are also given state mandated tests including PARCC tests for the new Common Core Curriculum and the Middle and High School Assessments. Special Education services are offered to students who qualify and counseling services are offered to all students.

The DJS behavior management program, CHALLENGE incorporates evidence based principles to promote the development of pro-social skills. The program promotes clear behavioral expectations within a structured daily routine, the development of respectful staff and youth relationships, positive role modeling by staff, and de-escalation strategies to manage inappropriate behavior. Behavioral expectations are clearly delineated for desired behaviors that are reinforced through social praise, youth leadership roles, program points, and tangible reinforcers.

A distinguishing element of the CHALLENGE program's daily routine is the community meeting. Community meetings are intended to provide daily opportunities for youth to practice interpersonal and leadership skills. In addition, they are expected to promote a sense of community by teaching the importance of community responsibility, teamwork, and good citizenship. Leadership roles within the community are earned as the youth progress through the program. The CHALLENGE program systematically provides positive reinforcement through a point and level system and social reinforcement.

The Thomas J.S. Waxter Children's Center offers a variety of youth development programming on weekends and evenings through non-profits and community based organizations to include hospitals and institutions that provide Narcotics Anonymous Meetings (NA), Letters to Youth which focuses on changing mindsets, The National Association for the Advancement of Colored People (NAACP) which provides motivational speakers who speak on interviewing skills and college preparation, and Baltimore Youth Arts. The Free, Aware, Inspired, Restored (FAIR) Girls program is used to prevent the exploitation of girls worldwide through education and empowerment. FAIR Girls administers specialized services that help at-risk youth avoid and escape situations of intimate partner violence, sexual assault and human sex trafficking.

The Thomas J.S. Waxter Children’s Center has four (4) faith based programs which provide spiritual guidance and bible study classes. Throughout a youth’s stay regular family interaction is encouraged with visits, phone calls and family day activities.

## Summary of Audit Findings

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

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

**Number of Standards Exceeded: 4**

**115.313, 115.316, 115.333, 115.342**

**Number of Standards Met: 39**

**Number of Standards Not Met: 0**

**Summary of Corrective Action (if any)**

## PREVENTION PLANNING

### Standard 115.311: Zero tolerance of sexual abuse and sexual harassment; PREA coordinator

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

#### 115.311 (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

### 115.311 (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

### 115.311 (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.*

#### Documentation Reviewed:

- Facility PAQ
- Maryland DJS Policy: Elimination and Reporting of Sexual Abuse and Harassment – PREA Juvenile Facility Standards Compliance
- Waxter Facility Operating Procedure: Elimination and Reporting of Sexual Abuse and Harassment
- Memorandum for Record: Agency-wide PREA Coordinator Designation

- Agency-wide Organizational Chart
- Memorandum for Record: PREA Compliance Manager Designation
- Waxter Organizational Chart

*115.311(a)-1 The agency has a written policy mandating zero tolerance toward all forms of sexual abuse and sexual harassment in facilities it operates directly or under contract.*

The Department of Juvenile Services has zero tolerance for all forms of sexual abuse and harassment against any youth in its custody and in its licensed or contracted residential programs. Suspected or alleged acts of sexual abuse and harassment shall be referred for investigation to the Department of Social Services, Child Protective Services Division, DJS Office Inspector General (OIG) and law enforcement in accordance with applicable laws and regulations. The Department of Juvenile Services shall establish operating procedures to ensure compliance with the federal Prison Rape Elimination Act (PREA), Juvenile Facility Standards. The Department of Juvenile Services shall employ or designate an upper-level, agency-wide PREA Coordinator with sufficient time and authority to develop, implement, and oversee agency efforts to comply with the PREA standards and shall designate PREA compliance managers to coordinate efforts to comply with PREA in all of its facilities.

*115.311(a)-2 The facility has a policy outlining how it will implement the agency's approach to preventing, detecting, and responding to sexual abuse and sexual harassment.*

The Department of Juvenile Services has zero tolerance for all forms of sexual abuse and harassment against any youth in its custody and in its licensed or contracted residential programs. Suspected or alleged acts of sexual abuse and harassment shall be referred for investigation to the Department of Social Services, Child Protective Services Division, DJS Office Inspector General (OIG) and law enforcement in accordance with applicable laws and regulations.

*The Department of Juvenile Services shall establish operating procedures to ensure compliance with the federal Prison Rape Elimination Act (PREA), Juvenile Facility Standards. The Department of Juvenile Services shall employ or designate an upper-level, agency-wide PREA Coordinator with sufficient time and authority to develop, implement, and oversee agency efforts to comply with the PREA standards and shall designate PREA compliance managers to coordinate efforts to comply with PREA in all of its facilities.*

*115.311(b)-1 The agency employs or designates an upper-level, agency-wide PREA coordinator.*

The Department of Juvenile Services has zero tolerance for all forms of sexual abuse and harassment against any youth in its custody and in its licensed or contracted residential programs. Suspected or alleged acts of sexual abuse and harassment shall be referred for investigation to the Department of Social Services, Child Protective Services Division, DJS Office Inspector General (OIG) and law enforcement in accordance with applicable laws and regulations. The Department of Juvenile Services shall establish operating procedures to ensure compliance with the federal Prison Rape Elimination Act (PREA), Juvenile Facility Standards. The Department of Juvenile Services shall employ or designate an upper-level, agency-wide PREA Coordinator with sufficient time and authority to develop, implement, and oversee agency efforts to comply with the PREA standards and shall designate PREA compliance managers to coordinate efforts to comply with PREA in all of its facilities.

Interviews:

- Superintendent
- PREA Coordinator

- PREA Compliance Manager

Maryland DJS has designated a PREA Coordinator who indicated during his interview that he has sufficient time to fulfill his duties and has the necessary authority to oversee the facilities compliance. He indicated the superintendents and/or the assistant superintendents are designated as the PREA Compliance Managers. He stated he does not have supervisor responsibilities over either classification but has developed a relationship with both classifications that is mutually respectful. He stated he has ongoing communication with the facility PREA Compliance Managers and convenes periodic meetings to address the standards.

The CHHS PREA Compliance Manager said she has sufficient time to oversee the facility's compliance with the standards and appreciates the guidance and support that he receives from the PREA Coordinator. The PREA Compliance Manager is identified in the facility organizational chart as the Administrator II and has the responsibility to oversee the Admissions/Intake area.

Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the agency and facility is not in compliance with this standard requiring a zero-tolerance policy toward sexual abuse and sexual harassment and the designation of a PREA Coordinator and PREA Compliance Manager. No corrective action is required.

## Standard 115.312: Contracting with other entities for the confinement of residents

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

### 115.312 (a)

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

### 115.312 (b)

- Does any new contract or contract renewal signed on or after August 20, 2012 provide for agency contract monitoring to ensure that the contractor is complying with the PREA standards? (N/A if the agency does not contract with private agencies or other entities for the confinement of residents OR the response to 115.312(a)-1 is "NO".)  Yes  No  NA

### Auditor Overall Compliance Determination

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

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

### Instructions for Overall Compliance Determination Narrative

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

#### Documents Reviewed:

- Facility PAQ
- Sample Contracts
- PREA Compliance Law & Language for Contractors
- Email Correspondence with Contract Language
- Maryland DJS Policy: Elimination and Reporting of Sexual Abuse and Harassment – PREA Juvenile Facility Standards Compliance

A review of three (3) contracts indicate contract providers are required to comply with the PREA standards and perform their reporting obligations per their contract. The contractors are also responsible for completing a criminal background check and where applicable they must submit to Child Protective Services clearance and to any applicable laws and Departmental policies. The specific policies that the contracts must adhere to is: Reporting and Investigating Child Abuse & Neglect, Elimination and Reporting of Sexual Abuse and Harassment, and Background Investigations.

#### Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the agency is in compliance with this standard regarding contracting with other entities for the confinement of residents.

## Standard 115.313: Supervision and monitoring

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

#### 115.313 (a)

- Does the agency ensure that each facility has developed a staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring, to protect residents against sexual abuse?  Yes  No
- Does the agency ensure that each facility has implemented a staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring, to protect residents against sexual abuse?  Yes  No
- Does the agency ensure that each facility has documented a staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring, to protect residents against sexual abuse?  Yes  No

- Does the agency ensure that each facility's staffing plan takes into consideration the 11 criteria below in calculating adequate staffing levels and determining the need for video monitoring: The prevalence of substantiated and unsubstantiated incidents of sexual abuse?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration the 11 criteria below in calculating adequate staffing levels and determining the need for video monitoring: Generally accepted juvenile detention and correctional/secure residential practices?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration the 11 criteria below in calculating adequate staffing levels and determining the need for video monitoring: Any judicial findings of inadequacy?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration the 11 criteria below in calculating adequate staffing levels and determining the need for video monitoring: Any findings of inadequacy from Federal investigative agencies?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration the 11 criteria below in calculating adequate staffing levels and determining the need for video monitoring: Any findings of inadequacy from internal or external oversight bodies?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration the 11 criteria below in calculating adequate staffing levels and determining the need for video monitoring: All components of the facility's physical plant (including "blind-spots" or areas where staff or residents may be isolated)?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration the 11 criteria below in calculating adequate staffing levels and determining the need for video monitoring: The composition of the resident population?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration the 11 criteria below in calculating adequate staffing levels and determining the need for video monitoring: The number and placement of supervisory staff?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration the 11 criteria below in calculating adequate staffing levels and determining the need for video monitoring: Institution programs occurring on a particular shift?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration the 11 criteria below in calculating adequate staffing levels and determining the need for video monitoring: Any applicable State or local laws, regulations, or standards?  Yes  No
- Does the agency ensure that each facility's staffing plan takes into consideration the 11 criteria below in calculating adequate staffing levels and determining the need for video monitoring: Any other relevant factors?  Yes  No

### 115.313 (b)



- Does the agency comply with the staffing plan except during limited and discrete exigent circumstances?  Yes  No
- In circumstances where the staffing plan is not complied with, does the facility document all deviations from the plan? (N/A if no deviations from staffing plan.)  Yes  No  NA

### 115.313 (c)

- Does the facility maintain staff ratios of a minimum of 1:8 during resident waking hours, except during limited and discrete exigent circumstances? (N/A only until October 1, 2017.)  Yes  No  NA
- Does the facility maintain staff ratios of a minimum of 1:16 during resident sleeping hours, except during limited and discrete exigent circumstances? (N/A only until October 1, 2017.)  Yes  No  NA
- Does the facility fully document any limited and discrete exigent circumstances during which the facility did not maintain staff ratios? (N/A only until October 1, 2017.)  Yes  No  NA
- Does the facility ensure only security staff are included when calculating these ratios? (N/A only until October 1, 2017.)  Yes  No  NA
- Is the facility obligated by law, regulation, or judicial consent decree to maintain the staffing ratios set forth in this paragraph?  Yes  No

### 115.313 (d)

- 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: Prevailing staffing patterns?  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

### 115.313 (e)

- Has the facility 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? (N/A for non-secure facilities)  Yes  No  NA

- Is this policy and practice implemented for night shifts as well as day shifts? (N/A for non-secure facilities)  Yes  No  NA
- Does the facility 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? (N/A for non-secure facilities)  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.*

#### Documentation Reviewed:

- Facility PAQ
- Maryland DJS Policy: Elimination and Reporting of Sexual Abuse and Harassment – PREA Juvenile Facility Standards Compliance
- Maryland DJS Policy: Supervision and Movement of Youth
- Waxter Staff Schedules
- Waxter Blind Spot
- Waxter Staffing Plan for 2020
- On-the-Job (OJT) Mentoring Manual
- Waxter Camera List
- Waxter Facility Assessment Form
- Waxter Facility Operating Procedures: Exigent Circumstances to Maintain PREA Ratio
- Waxter Facility Operating Procedures: Direct Care Staffing
- Waxter Facility Operating Procedures: Unannounced Rounds

#### Documentation Reviewed During Onsite Phase of Audit

- Shift Status Reports

*115.313(a)-1 The agency requires each facility it operates to develop, document, and make its best efforts to comply on a regular basis with a staffing plan that provides for adequate levels of staffing, and, where applicable, video monitoring, to protect residents against abuse.*

1. The facility Superintendent shall develop a *Staffing Plan (Appendix 1)* to ensure adequate staffing levels. The plan shall account for the following:

- a. Compliance with department approved facility staff-to-youth ratios.
- b. A post is created or abolished.
- c. Post hours change.
- d. All components of the physical plant, to include size of living units, blind spots, and installation of cameras for video monitoring.
- e. Special housing (medical units, intensive services units).
- f. Programming occurring on a particular shift.
- g. Composition of the youth population.
- h. Number and placement of supervisory staff.
- i. Findings of inadequacy by Administration and Managerial staff.
- j. Findings of inadequacy from Departmental and / or Federal investigative agencies.
- k. Applicable State laws and regulations.
- l. Department approved standards.
- m. Prevalence of substantiated and unsubstantiated incidents of sexual abuse.
- n. Any other relevant factors.

*115.313(c)-1 The facility is obligated by law, regulation, or judicial consent decree to maintain staffing ratios of a minimum of 1:8 during resident waking hours and 1:16 during resident sleeping hours.*

- 2. The Staffing Plan shall identify all of the facility posts and required coverage by shift.
  - 1:8 staff / youth 1st shift
  - 1:8 staff / youth 2nd shift
  - 1:16 staff / youth 3rd shift

**Note** a 2nd staff will be required in the event of a youth sleeping out in the day room area. All **exigent circumstances** must be documented in the unit log and Supervisor's shift report.

- 3. Absent exigent circumstances, the facility shall maintain a 1: 8 staff-to-youth supervision ratio in accordance with department approved guidelines. (See Facility Staff-to-Youth Ratios.

*115.313(e)-1 The facility requires that intermediate-level or higher-level staff conduct unannounced rounds to identify and deter staff sexual abuse and sexual harassment.*

- 4. The Staffing Plan shall provide for a shift commander, resident advisor supervisor, or group life manager on each shift who shall be responsible for conducting and documenting unannounced rounds to identify and deter staff sexual abuse and sexual harassment.

**Interviews:**

- PREA Coordinator
- PREA Compliance Manager
- Intermediate or Higher-Level Facility Staff
- Random Staff

The facility has developed a staffing plan that takes into account the number of residents and their programming activities throughout the day. Since the last PREA audit the average daily number of residents has been fourteen (14) and the average daily number of residents on which the staffing plan was predicated is thirty-five (35). The superintendent confirmed that the facility regularly develops a staffing plan, adequate staffing levels to protect residents against sexual abuse are considered in the plan, video monitoring is part of the plan, and the staffing plan is documented. Documentation was provided to the auditor to demonstrate that the plan takes into consideration the 11 elements required by the standard. The superintendent confirmed he checks for compliance with the staffing plan through

unannounced rounds, personal observations, and shift logs. The PREA compliance manager confirmed all aspects of this provision of the standard are considered when assessing adequate staffing levels and the need for video monitoring.

The PREA Coordinator as well as the facility superintendent indicated Waxter does not deviate from their established staffing plans except in exigent circumstances (i.e., staff or youth emergency). In such a case, the facility would enlist support from volunteer staff or select a staff member from the mandatory list. A deviation would be temporarily and would never extend an entire day. Additionally, the superintendent confirmed the facility has the adequate number of direct care staff positions to meet the staffing ratios and mitigate possible deviations from the staffing plan.

Documentation was provided that demonstrated that the most recent staffing plan was reviewed on or around February 16, 2021 and was signed by the Superintendent, PREA Compliance Manager, PREA Coordinator, and the Executive of Residential Services. The review process covered all factors required according to the standard.

Documentation provided to the auditor indicates the facility has seventy-six (76) employees that have contact with the residents and the majority of those employees provide direct care services. Teachers are not considered security staff and the facility has adequate staff to have one (1) staff member in every classroom with the residents.

Documentation was reviewed during the onsite audit that demonstrated that the intermediate-level and higher-level staff consistently conduct unannounced security checks (PREA Checks). A review of the unit logs demonstrated that the unannounced rounds exceed policy and PREA expectations; the operating procedure requires documented checks at a minimum of three times per shift and the documentation is easily noticeable because the agency requires that checks are in red ink. They are conducted on all shifts and the policy prevents staff from alerting others by not stating the purpose of the round.

Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the facility exceeds compliance with this standard regarding supervision and monitoring. No corrective action required.

## **Standard 115.315: Limits to cross-gender viewing and searches**

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

### **115.315 (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

### **115.315 (b)**

- Does the facility always refrain from conducting cross-gender pat-down searches in non-exigent circumstances?  Yes  No  NA

### 115.315 (c)

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

### 115.315 (d)

- Does the facility implement policies and procedures that enable residents to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks?  Yes  No
- Does the facility require staff of the opposite gender to announce their presence when entering a resident housing unit?  Yes  No
- In facilities (such as group homes) that do not contain discrete housing units, does the facility require staff of the opposite gender to announce their presence when entering an area where residents are likely to be showering, performing bodily functions, or changing clothing? (N/A for facilities with discrete housing units)  Yes  No  NA

### 115.315 (e)

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

### 115.315 (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 residents 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.*

### Documentation Reviewed:

- Facility PAQ
- Maryland DJS Policy: Elimination and Reporting of Sexual Abuse and Harassment – PREA Juvenile Facility Standards Compliance
- On-the-Job (OJT) Mentoring Manual
- Cross Gender Pat Down Search Training Curriculum (2016 & 2019)
- PREA Refresher Training (2021)
- Maryland DJS Executive Directive Re: Visual body search procedures
- Maryland DJS Policy: Searches of Youth, Employees, and Visitors
- Waxter Facility Operating Procedure: Searches of Youth Employees, and Visitors/Control of Contraband
- Waxter Facility Operating Procedure: Limits to Cross-Gender Viewing and Searches
- Waxter Facility Operating Procedure: Youth Shower Procedures
- Maryland DJS Policy: Direct Care Staffing
- Waxter Facility Operating Procedure: Movement & Supervision of Youth
- Maryland DJS Policy: Supervision and Movement of Youth
- Waxter Facility Operating Procedure: Admissions, Orientation and Housing Classification of Youth
- Maryland DJS Policy: Admission and Release of Youth in DJS Facilities

*115.315(a)-1 The facility conducts cross-gender strip or cross-gender visual body cavity searches of residents.*

*DJS employees responsible for the direct supervision of youth in the physical custody and care of the department shall conduct searches of youth, employees, and visitors to control for contraband and provide for its disposition. Searches shall be conducted in a respectful and professional manner, and in the least intrusive manner possible, consistent with security needs.*

e. Staff shall not conduct cross-gender pat-down searches except in justified exigent circumstances. When an employee of the same gender as the youth being searched is not available, the youth shall be kept under constant visual supervision until a same gender staff is available to perform the search, unless, as determined by the Superintendent or designee, an exigent circumstance exists that threatens the safety and security of the facility, staff or other youth and dictate an immediate pat-down search of the youth. Searches made under justified exigent circumstances must be approved by the Superintendent and documented in the unit and facility log book.

*115.315(d)-1 The facility has implemented policies and procedures that enable residents to shower, perform bodily functions, and change clothing without non-medical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks (this includes viewing via video camera).*

7. Staff will ensure movement is limited. Limited means that all youth will move directly from their rooms to shower and from the shower back to their rooms. **ALL YOUTH ARE TO SHOWER FROM BEHIND THEIR DOORS.** Only an Administrator can de-activate this order.

*115.315(d)-2 F. Staff of the opposite gender must announce their presence when entering a resident housing unit or any area where residents are likely to be showering, performing bodily functions, or changing clothing.*

3. Staff of the opposite gender of the youth shall announce their presence when entering a youth's housing unit. In facilities that do not contain a discrete housing unit, staff of the opposite gender shall be required to announce their presence when entering an area where youth are likely to be showering, performing bodily functions, or changing clothing.

*115.315(e)-1 The facility has a policy prohibiting staff from searching or physically examining a transgender or intersex resident for the sole purpose of determining the resident's genital status.*

c. Transgender and intersex youth shall not be searched for the sole purpose of identifying genital status. If it is necessary to determine genital status, staff shall discuss the issue with youth, review the youth's medical record, or if necessary, request a medical examination by a licensed health care practitioner.

Interviews:

- Executive of Committed Facilities
- PREA Coordinator
- Random Staff
- Resident who identifies as LGBTQI
- Random Residents

According to the PAQ, the facility did not conduct a cross-gender strip or cross-gender visual body cavity search of any resident in the 12 months preceding the audit. Staff interviews indicated that none of the Maryland DJS facilities are allowed to conduct a cross-gender external, body or pat-down search except in exigent circumstances. Waxter is an all-female facility and all personal searches are conducted by female staff. Waxter is adequately staffed with female staff to provide appropriate services for all youth. Staff and resident interviews indicated male staff members are not allowed to conduct any type of search that involves searching their bodies but they are allowed to search their property and their rooms. All searches conducted by female staff require the presence of two female

staff members. When the staff conducts a pat search they must position themselves in view of the camera.

Residents are able to shower, perform bodily functions, and change clothing in the privacy of an individual room and shower stalls. The resident interviews indicated while residents are showering, the male staff provide supervision and female staff are off of the unit. Staff and resident interviews explain that opposite gender announcements are provided verbally and the resident's state that they understand the announcement means if they are in a state of undress that they should get dressed to protect themselves and the staff member from violating PREA.

Interviews with staff confirmed they are aware of the policy prohibiting them from searching or physically examining a transgender or intersex juvenile for the purpose of determining the juvenile's physical anatomy. The staff suggest searching a resident who identifies as transgender to determine their biological sex could result in disciplinary action and that they should gather the information by interviewing the resident or contacting the medical staff for assistance.

Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the facility is compliant with this standard regarding limits to cross-gender viewing and searches. No corrective action is required.

## **Standard 115.316: Residents with disabilities and residents who are limited English proficient**

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

### **115.316 (a)**

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



- Does the agency take appropriate steps to ensure that residents with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: Residents who have speech disabilities?  Yes  No
- Does the agency take appropriate steps to ensure that residents with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: Other? (if "other," please explain in overall determination notes.)  Yes  No
- Do such steps include, when necessary, ensuring effective communication with residents 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 residents with disabilities including residents 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 residents with disabilities including residents 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 residents with disabilities including residents who: Are blind or have low vision?  Yes  No

#### 115.316 (b)

- Does the agency take reasonable steps to ensure meaningful access to all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment to residents who are limited English proficient?  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

#### 115.316 (c)

- Does the agency always refrain from relying on resident interpreters, resident readers, or other types of resident assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the resident's safety, the performance of first-response duties under §115.364, or the investigation of the resident's allegations?  Yes  No

### Auditor Overall Compliance Determination

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

### 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.*

#### Documentation Reviewed:

- Facility PAQ
- Maryland DJS Policy: Elimination and Reporting of Sexual Abuse and Harassment – PREA Juvenile Facility Standards Compliance
- Americans with Disabilities Act (ADA): Facility Coordinator Monthly Monitoring Report (2020-2021)
- Contracts for Limited English Service Providers
- LEP Reports (2020-2021)
- Waxter Youth Handbook (English & Spanish)
- List of LEP Coordinators
- STARR Youth Handbook
- Maryland DJS Policy: Accessibility for Youth with Hearing Impairments
- Challenge Program Manual for Youth
- Flashcards: If you need an Interpreter
- List of Language Providers (Established 2013)
- Monthly ADA Monitoring
- Monthly LEP Monitoring
- Maryland DJS Policy: Nondiscrimination of Youth
- Request for Auxiliary Aids and Services Form
- What You Should Know About Sexual Abuse and Sexual Harassment (English and Spanish)
- Maryland DJS Policy: Communication with Limited English Proficient Persons

*115.316(a)-1 The agency has established procedures to provide disabled residents 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.*

It is the policy of the Department of Juvenile Services that staff shall not discriminate against any youth on the basis of age, race, ancestry, color, national origin or citizenship, place of residence, creed, genetic information, religion, sex, sexual orientation, gender identity or expression, personal appearance, marital or familial status, source of income, mental or physical disability, or political views when making administrative decisions and in providing services to youth. DJS staff shall act in accordance with federal and State laws and applicable regulations to prohibit and ensure the absence

of discrimination in all programs. Staff shall honor and respect the value and dignity of each youth served, and facilitate an environment that is free from discrimination on any basis. Youth shall be given equal opportunities in all activities, services and programs.

Interviews:

- Executive of Committed Facilities
- Random Staff
- Random Resident

According to the PAQ and interviews with the Superintendent, PREA Coordinator, and random staff Maryland DJS has established procedures to provide disabled residents 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.

Waxter has special education teachers who are qualified to assist residents who are identified as having an intellectual or speech disability. Behavioral health staff are available to assist residents with psychiatric needs. Each facility has an ADA Coordinator that shall coordinate appropriate auxiliary aids and services upon notification that the resident is hearing impaired. Resources for deaf or hard of hearing residents are made available through visual aids.

Maryland DJS has a contract with Ad Astra, Interpreters Unlimited and LanguageLine. Ad Astra offers onsite interpretation and translation services on an as-needed basis. When a translator is deployed to the facility the individual will provide in-person services to the resident from the time the resident wakes until they go to bed.

According to the PAQ, the facility did not have any instances where resident interpreters, readers, or other types of resident assistants have been used in the 12 months preceding the audit. Staff interviews confirmed the agency would use a Spanish speaking staff member or a translator for interpretation services. Interviewed staff indicated the facility did not use a resident interpreter, resident reader, or any other type of resident assistance being used in relation to allegations of sexual abuse or sexual harassment.

Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the facility exceeds compliance with this standard regarding residents with disabilities and residents who are limited English Proficient. No corrective action is required.

## Standard 115.317: Hiring and promotion decisions

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

### 115.317 (a)

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

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

#### 115.317 (b)

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

#### 115.317 (c)

- Before hiring new employees, who may have contact with residents, does the agency: Perform a criminal background records check?  Yes  No
- Before hiring new employees, who may have contact with residents, does the agency: Consult any child abuse registry maintained by the State or locality in which the employee would work?  Yes  No
- Before hiring new employees, who may have contact with residents, does the agency: Consistent with Federal, State, and local law, make its best efforts to contact all prior institutional employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse?  Yes  No

#### 115.317 (d)

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

#### 115.317 (e)

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

#### 115.317 (f)

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

#### 115.317 (g)

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

#### 115.317 (h)

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

#### Auditor Overall Compliance Determination

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

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

### **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.*

#### **Documentation Reviewed:**

- Facility PAQ
- Maryland DJS Policy: Elimination and Reporting of Sexual Abuse and Harassment – PREA Juvenile Facility Standards Compliance
- Maryland DJS Staff Disclosure Forms (i.e., PREA-Mandated Disclosure)
- Sample of signed Mandated Disclosure Forms
- Maryland DJS Policy: Background Investigation Policy
- Waxter List of Staff
- Maryland DJS Policy: Volunteer Services

*115.317(a)-1 Agency policy prohibits hiring or promoting anyone who may have contact with residents, and prohibits enlisting the services of any contractor who may have contact with residents, who—*  
*(1) Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997);*  
*(2) Has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or*  
*(3) Has been civilly or administratively adjudicated to have engaged in the activity described in paragraph (a)(2) of this section.*

#### **E. Disqualification**

1. A mandated applicant, employee, contractor, or volunteer shall be disqualified if the individual has or obtains a conviction or convictions enumerated in COMAR 12.10.01.20.
2. In addition to the convictions enumerated in COMAR 12.10.01.20, the following may result in disqualification of applicants, termination of the employee or volunteer, or discontinuation of services provided by the contractor:
  - a. a conviction of first degree assault;
  - b. a conviction of child abuse;
  - c. a conviction for distribution of controlled dangerous substances;
  - d. convictions for infamous crimes, such as perjury or fraud, which have occurred within the past ten years;
  - e. convictions and civil or administrative adjudications of activity involving engaging or attempting to engage in sexual activity 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;
  - f. instances of engaging in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution;
  - g. incidents of sexual harassment (excluding unfounded accusations);
  - h. failure to report an arrest or pending charge for a criminal offense or a positive indication of child abuse or neglect;
  - i. conviction for drug possession;

- j. conviction for drug distribution;
- k. conviction for assault;
- l. currently on supervised probation; or
- m. Gangnet - verified and/or affiliated.

*115.317(b)-1 Agency policy requires the consideration of any incidents of sexual harassment in determining whether to hire or promote anyone, or to enlist the services of any contractor, who may have contact with residents.*

**4. Hiring, Promotions and Background Checks:** All applicants, volunteers, and contracted staff shall be subject to a criminal records check, Child Protective Services (CPS) check and Sex Offender Registry check, in accordance with the *Background Investigations, Reporting and Investigating Child Abuse and Neglect Policies and Procedures*.

*115.317(c)-1 Agency policy requires that before it hires any new employees who may have contact with residents, it (a) conducts criminal background record checks, (b) consults any child abuse registry maintained by the State or locality in which the employee would work; and (c) consistent with Federal, State, and local law, makes its best efforts to contact all prior institutional employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse.*

The Department of Juvenile Services has zero tolerance for all forms of sexual abuse and harassment against any youth in its custody and in its licensed or contracted residential programs. Suspected or alleged acts of sexual abuse and harassment shall be referred for investigation to the Department of Social Services, Child Protective Services Division, DJS Office Inspector General (OIG) and law enforcement in accordance with applicable laws and regulations.

The Department of Juvenile Services shall establish operating procedures to ensure compliance with the federal Prison Rape Elimination Act (PREA), Juvenile Facility Standards. The Department of Juvenile Services shall employ or designate an upper-level, agency-wide PREA Coordinator with sufficient time and authority to develop, implement, and oversee agency efforts to comply with the PREA standards and shall designate PREA compliance managers to coordinate efforts to comply with PREA in all of its facilities.

*115.317(d)-1 Agency policy requires that a criminal background records check be completed, and applicable child abuse registries consulted before enlisting the services of any contractor who may have contact with residents.*

The Department of Juvenile Services (DJS) shall ensure that a background investigation is completed for all applicants, contractors, and volunteers in accordance with state and federal statutes.

*115.317(g)-1 Agency policy states that material omissions regarding such misconduct, or the provision of materially false information, shall be grounds for termination.*

#### 5. PREA Mandated Disclosure Form

- a. All new applicants, as well as current employees applying for a promotional opportunity, shall complete and sign the **PREA Mandated Disclosure Form (Appendix 1)**.
- b. Employees have an ongoing obligation to disclose to supervisors/administrators any sexual misconduct as described on the PREA Mandated Disclosure Form.

- c. At the time of each performance review (interim or annual), all employees shall complete and sign the **PREA Mandated Disclosure Form (Appendix 1)**.
- d. The completed **PREA Mandated Disclosure Form (Appendix 1)** shall be placed in the employees' personnel file. Material omission by an employee regarding their misconduct, or the provision of materially false information, shall be grounds for termination.
- e. Contractors (to include contract Resident Advisors) shall be subject to the requirements of sections III.A.5(a) and 5(b) above. They also shall be required to complete the PREA Mandated Disclosure Form annually on July 1st and no later than July 10th. A copy of the completed forms shall be maintained by the designated departmental Director or Administrator.

Interviews:

- PREA Coordinator
- Human Resources/Background Clearance Staff
- Random Staff

The auditor reviewed the PREA-Mandated Disclosure form and observed the three (3) questions regarding past conduct were asked and answered. The auditor was informed that current employees are periodically asked the same questions about misconduct. Lastly, the facility provided an Excel Spreadsheet showing that all existing employees complete the background check that includes the child protection services check. This documentation was provided as part of the pre-onsite audit documentation. The HR staff interview supported the documented evidence. The HR representative stated the facility asks all applicants and employees about previous misconduct in written applications for hiring and promotions and in written self-evaluations conducted as part of reviews for current employees.

Additionally, the HR representative indicated employees fall under the current Maryland law which flags all Maryland DJS employees in the Maryland Bureau of Investigations system. Anytime an employee is arrested, charged or summoned for any criminal offense the employees appointing authority is contacted by the Human Resource department. The employee also has an affirmative duty to self-report all disqualifying offenses as soon as possible.

The HR representative confirmed the department considers prior incidents of sexual harassment in determining whether to hire or promote anyone, or to enlist the services of any contractor, who may have contact with the residents.

The HR representative confirmed the department performs criminal background record checks and considers pertinent civil or administrative adjudications for all newly hired employees and contractors who may have contact with the residents and all employees, who may have contact with residents. The HR representative also confirmed the OIG unit is responsible for running a clearance check through the child protection services and there are periodic checks during an employee's employment with DJS.

The PREA-Mandated Disclosure form instructs applicants that they have a continuing duty to disclose any misconduct and that material omission of such misconduct, or the provisions of materially false information, should be grounds for termination.

The HR representative confirmed Maryland statute allows the agency to provide information on substantiated allegations of sexual abuse or sexual harassment involving a former employee but the request must accompany a release signed by the former employee. All requests will be referred to the HR Department to have the information released.



Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the facility is in compliance with this standard regarding hiring and promotion decisions. No corrective action is required.

## Standard 115.318: Upgrades to facilities and technologies

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

#### 115.318 (a)

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

#### 115.318 (b)

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

### Auditor Overall Compliance Determination

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

### 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.*

### Documents Reviewed:

- Facility PAQ
- Maryland DJS Policy: Elimination and Reporting of Sexual Abuse and Harassment – PREA Juvenile Facility Standards Compliance
- Waxter Camera Audit Forms
- Camera Repair Memo
- Camera Repair Correspondence
- Facility Arial Layout
- Waxter Building Map

Interviews:

- Executive of Committed Facilities

During the Executive of Residential Services interview he indicated when acquiring new buildings or designing new facility's Maryland DJS will consider open floor plans versus closed facilities. He indicated the open floor plan decreases blind spots and increases visual observation. The open floor plan also eliminates corners and closet space. The facilities are fully equipped with rooms and doors with large windows that allow adequate sight and sound supervision and the staff are prohibited from covering the windows.

Maryland DJS has facilities that date back to the 1800's and early 1900's. The agency has invested in the facilities to meet the modern day needs, and they continue to modernize the facilities when there is a need identified. Maryland DJS is planning to build a new treatment facility and possibly a detention facility. As of the day of the onsite audit, one facility has building plans drawn out and the funds have been allocated to build a new facility. The Executive of Residential Services indicated the PREA Coordinator will be a part of future conversations to ensure the Maryland DJS safety and PREA standards are met.

Maryland DJS has installed cameras throughout the facility in the interior and exterior parts of the facility. Waxter has fifty-two (52) cameras installed throughout the facility that is monitored from Master Control where movement is also managed. Each facility superintendent and the staff assigned to the control room are responsible to assess camera blind spots. When a facility camera is inoperable a request for camera repairs would be emailed by the facility administrators to a DJS Department of Information Technology specialist. The PREA Coordinator as well as the superintendent indicated that camera repairs can sometimes take place with the specialist remoting in and repairs are always made in a timely manner. All of the documentation regarding camera repairs would be maintained by the facility administrators.

Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the agency and facility is in compliance with this standard regarding upgrades to facilities and technologies. No corrective action is required.

## RESPONSIVE PLANNING

### Standard 115.321: Evidence protocol and forensic medical examinations

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

**115.321 (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

**115.321 (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

**115.321 (c)**

- Does the agency offer all residents who experience sexual abuse access to forensic medical examinations, whether on-site or at an outside facility, without financial cost, where evidentiarily or medically appropriate?  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

**115.321 (d)**

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

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

#### 115.321 (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

#### 115.321 (f)

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

#### 115.321 (g)

- Auditor is not required to audit this provision.

#### 115.321 (h)

- If the agency uses a qualified agency staff member or a qualified community-based staff member for the purposes of this section, has the individual been screened for appropriateness to serve in this role and received education concerning sexual assault and forensic examination issues in general? (Check N/A if agency attempts to make a victim advocate from a rape crisis center available to victims per 115.321(d) above.)  Yes  No  NA

#### Auditor Overall Compliance Determination

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

#### Instructions for Overall Compliance Determination Narrative

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

Documentation Reviewed:

- Facility PAQ
- Maryland DJS Policy: Elimination and Reporting of Sexual Abuse and Harassment – PREA Juvenile Facility Standards Compliance
- MCASA Memo
- Turn Around Meme
- Sexual Assault Respondent Support Staff (SARS) Notification Protocol
- SARS Training
- Maryland DJS Policy: Youth Grievance
- Coordinated Response Plan
- SAFE Statewide Hospital List
- Maryland DJS SARS Responder List
- Mental Health Licensing Information
- Guidelines for Submitting Physical Evidence
- Maryland Forensic Exam Regulations

*115.321(a)-1 The agency/facility is responsible for conducting administrative or criminal sexual abuse investigations (including resident-on-resident sexual abuse or staff sexual misconduct).*

The Department of Juvenile Services has zero tolerance for all forms of sexual abuse and harassment against any youth in its custody and in its licensed or contracted residential programs. Suspected or alleged acts of sexual abuse and harassment shall be referred for investigation to the Department of Social Services, Child Protective Services Division, DJS Office Inspector General (OIG) and law enforcement in accordance with applicable laws and regulations.

*115.321(c)-1 The facility offers to all residents who experience sexual abuse access to forensic medical examinations.*

4. Health Care Professionals shall:

- a. Provide emergency measures if necessary to stabilize the youth without interfering with the collection of evidence. Use the PREA Response Kit, if it has not been utilized by the first responder, to preserve physical evidence that may be on the youth or the youth's clothing.
- b. Complete the Nursing Report of Youth Injuries Form.
- c. Report the incident to CPS. Complete the **CPS Suspected Abuse/ Neglect Report (Appendix 3)** and forward a copy to CPS and the Shift Commander or designee.
- d. Photograph any visible injury in accordance with *Incident Reporting- Residential and Community Operations Policy and Procedures*.
- e. Refer, as needed, the alleged victim to the nearest hospital emergency room that has a qualified, trained forensic medical examiner (**Appendix 4**).
- f. Offer victims of sexual abuse timely information and timely access to prophylactic treatment for prevention of sexually transmitted infections, HIV, emergency contraception for pregnancy and access to this treatment, if not provided by the hospital.
- g. Offer pregnancy tests to victims of sexually abusive vaginal penetration, if not provided by the hospital.
- h. If pregnancy results, offer the victim appropriate and comprehensive information about the timely access to all lawful pregnancy-related medical services.

115.321(d)-1 *The facility attempts to make a victim advocate from a rape crisis center available to the victim, in person or by other means.*

1. Qualified Behavioral Health Professionals shall:

- a. Meet with the youth as soon as possible to provide an assessment and crisis intervention on the day of the notification. A QBHP shall provide 24/7 on call services.
- b. Refer the youth to community-based organizations, institutions and/or support groups equipped to evaluate and treat sexual abuse/assault victims. **(Appendix 5).**

115.321(e)-1 *If requested by the victim, a victim advocate, or qualified agency staff member, or qualified community-based organization staff member accompanies and supports the victim through the forensic medical examination process and investigatory interviews and provides emotional support, crisis intervention, information, and referrals.*

As requested by youth, contact the Youth Advocate, qualified staff member, or qualified community-based organization staff member to accompany and support the youth through the forensic medical examination process and investigatory interview and provide emotional support, crisis intervention, information, and referrals.

115.321(f)-1 *If the agency is not responsible for investigating administrative or criminal allegations of sexual abuse and relies on another agency to conduct these investigations, the agency has requested that the responsible agency follow the requirements of paragraphs §115.321 (a) through (e) of the standards. Check NA if the agency/facility is responsible for administrative and criminal investigations.*

1. *Staff shall refer all alleged incidents of sexual abuse, harassment or misconduct to CPS for investigation and determination of child abuse, and to MSP for the criminal investigation and determination of criminal charges. The Superintendent shall cooperate with outside investigators and shall endeavor to remain informed about the progress of the investigation.*
2. *Staff shall refer all allegations of sexual abuse and harassment to the DJS OIG. If the OIG completes an administrative investigation, the investigation shall include:*
  - a. *efforts to determine whether staff actions or failures to act contributed to the abuse;*
  - b. *a description of the physical and testimonial evidence*
  - c. *the reasoning behind credibility assessments; and*
  - d. *investigative facts and findings.*

Interviews:

- SANE Staff
- Random Staff

The Office of Inspector General (OIG) is the agency responsible for conducting administrative investigations and the Maryland State Police (MSP) is responsible for conducting all criminal investigations. All of the OIG investigations would be conducted according to standard investigatory protocols. Maryland DJS would not be responsible for referring criminal allegations for prosecution; however, the superintendent, executive, and the PREA Coordinator indicated they all would fully cooperate with criminal investigations and prosecutions.

The PAQ provided to the auditor, indicated there were zero (0) allegations of sexual abuse that required a forensic examination or the services of an advocate for emotional support in the past 12 months. Waxter has medical staff onsite 24 hours a day. All residents residing at Waxter would be transported to the UM Baltimore Washington Medical Center in Baltimore, Maryland for a forensic

examination. The UM Baltimore medical center has trained SANE nurses on staff but in any instance that a nurse is not on shift an on-call SANE nurse would be called to conduct the exam. Additionally, the UM Baltimore medical center would provide testing, STD Prophylaxis and options as medically determined. The facility medical personnel are qualified to provide testing, administer STD Prophylaxis, and provide additional follow-up medical care as prescribed per discharge orders.

Also, Waxter has an agreement with YWCA of Annapolis & Anne Arundel that will allow the residents to call the rape crisis center hotline number. All new admissions to Waxter will receive information about YWCA of Annapolis & Anne Arundel within ten (10) calendar days of their admission. YWCA of Annapolis & Anne Arundel will provide a victim advocate if requested by a victim of sexual abuse. Maryland DJS also has trained agency and facility staff to provide advocacy services if a resident made a request. The DJS practice is to provide an advocate that is not assigned to the facility where the allegation occurred.

Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the facility is in compliance with this standard regarding evidence protocol and forensic medical examinations. No corrective action is required.

## Standard 115.322: Policies to ensure referrals of allegations for investigations

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

### 115.322 (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

### 115.322 (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

### 115.322 (c)

- If a separate entity is responsible for conducting criminal investigations, does such publication describe the responsibilities of both the agency and the investigating entity? [N/A if the agency/facility is responsible for criminal investigations. See 115.321(a).]  
 Yes    No    NA

#### 115.322 (d)

- Auditor is not required to audit this provision.

#### 115.322 (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

*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.*

#### Documentation Reviewed:

- Facility PAQ
- Maryland DJS Policy: Elimination and Reporting of Sexual Abuse and Harassment – PREA Juvenile Facility Standards Compliance
- Maryland DJS Policy: Reporting and Investigating Child Abuse and Neglect
- Three (3) Incident Reports
- Three (3) Administrative Reports

*115.322(a)-1 The agency ensures that an administrative or criminal investigation is completed for all allegations of sexual abuse and sexual harassment.*

The Department of Juvenile Services has zero tolerance for all forms of sexual abuse and harassment against any youth in its custody and in its licensed or contracted residential programs. Suspected or alleged acts of sexual abuse and harassment shall be referred for investigation to the Department of Social Services, Child Protective Services Division, DJS Office Inspector General (OIG) and law enforcement in accordance with applicable laws and regulations.

*115.322(b)-1 The agency has a policy that requires allegations of sexual abuse or sexual harassment be referred for investigation to an agency with the legal authority to conduct criminal investigations,*



*including the agency if it conducts its own investigations, unless the allegation does not involve potentially criminal behavior.*

1. *Staff shall refer all alleged incidents of sexual abuse, harassment or misconduct to CPS for investigation and determination of child abuse, and to MSP for the criminal investigation and determination of criminal charges. The Superintendent shall cooperate with outside investigators and shall endeavor to remain informed about the progress of the investigation.*
2. *Staff shall refer all allegations of sexual abuse and harassment to the DJS OIG. If the OIG completes an administrative investigation, the investigation shall include:*
  - a. *efforts to determine whether staff actions or failures to act contributed to the abuse;*
  - b. *a description of the physical and testimonial evidence*
  - c. *the reasoning behind credibility assessments; and*
  - d. *investigative facts and findings.*

Interviews:

- Executive of Committed Facilities
- Investigative Staff
- PREA Coordinator

According to the policy all allegations of sexual misconduct will be taken seriously and investigated thoroughly by a trained administrative and criminal investigator. Investigations will be conducted in a timely manner and administrative investigators shall impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated. The standard for criminal investigations conducted by MSP would be based on Maryland state statute. A report made to the agency or any facility staff member would be documented on an incident report and the OIG would be notified to initiate an investigation. The OIG unit is intended to provide the most effective and efficient investigation and to ensure a department that is independent of DJS conduct an investigation. Allegations with a criminal component would be referred by the agency/facility to MSP. The facility PAQ reports there were three (3) sexual abuse and sexual harassment allegations in the past 12 months. Of the three allegations both allegations resulted in an administrative investigation conducted by the OIG.

The agency website has information that informs the public about the different methods for reporting allegations of abuse. The website states, "Allegations are reported to the Department of Social Services Child Protection Unit, the Maryland State Police and the Department of Juvenile Services Office of the Inspector General for investigation. Management teams review all investigations to determine corrective actions, which may include, enhanced facility practices, staff and/or youth discipline." Interviews with administrators, specialized and direct care staff confirmed that they were knowledgeable of reporting requirements and procedures and all acknowledged they are mandated reporters.

Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the facility is in compliance with this standard regarding policies to ensure referrals of allegations for investigations. No corrective action is required.

## TRAINING AND EDUCATION

### Standard 115.331: Employee training

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

#### 115.331 (a)

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

#### 115.331 (b)

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

### 115.331 (c)

- Have all current employees who may have contact with residents 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

### 115.331 (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.*

### Documentation Reviewed:

- Facility PAQ
- Maryland DJS Policy: Elimination and Reporting of Sexual Abuse and Harassment – PREA Juvenile Facility Standards Compliance

- PREA Pocket Guide
- PREA Initial Training Chart
- Waxter Facility Operating Procedures: Employee Training for PREA
- Maryland DJS Policy: Staff Training
- Shift Status Report Memo
- Training Curriculum (2018 & 2019)
- Staff Refresher Training Curriculum (2020 & 2021)
- Waxter Muster Meeting Training Acknowledgement Forms

*115.331(a)-1 The agency trains all employees who may have contact with residents in the following matters (check all that apply and indicate where in training curriculum this information is covered):*

6. Employee Training

- All employees who have direct contact with youth shall receive entry-level and annual training on the Department's Elimination and Reporting of Sexual Abuse and Harassment Policy and Procedures. They must also complete all other Department approved training as listed in **PREA Mandated Training (Appendix 2)**.
- The Department's training unit shall provide entry-level and annual training that addresses all areas of employee training in accordance with PREA Juvenile Facility Standard 115.331, Employee Training.
- Staff shall acknowledge, in writing, receipt and understanding of all training provided.

*115.331(d)-1 The agency documents that employees who may have contact with residents understand the training they have received through employee signature or electronic verification.*

- Staff shall acknowledge, in writing, receipt and understanding of all training provided.

Interviews:

- PREA Coordinator
- Specialized Staff
- Random Staff

All new Maryland DJS employees receive orientation training before undertaking their assignments. New employees receive training at the Entry Level Training Academy. The training includes eight (8) hours of PREA classroom training which includes reviewing the PREA policy, reporting and investigating child abuse and neglect, and random or reasonable suspicion checks for child abuse and neglect.

Each year current employees receive annual training and refresher training on a periodic basis throughout the year. The auditor reviewed four (4) curriculums each addressing the required training modules, 1) PREA Staff Training First Responder, 2) PREA Staff Training Effective Communication LGBTQI Residents, 3) PREA Staff Training Sexual Abuse and Sexual Harassment Definitions, and 4) Staff Training Policy and Definition Lesson. The PREA curriculum is designed to provide an overview of the PREA standards, describe how PREA compliance will prevent incidents of sexual abuse in Maryland DJS facilities; and the Effective Communication with LGBTQI Residents curriculum examines sexual orientation, gender identity, and gender expression related issues.

Between annual trainings the facility will provide refresher trainings during the facility shift debriefings, which are commonly referred to as a "Muster." The PREA Coordinator provided the auditor with communication bulletins, PowerPoints, and shift briefing minutes that include staff signature. The

auditor received and reviewed signed training acknowledgment forms as well as training transcripts, which demonstrated the staff received training in 2021 and staff interviews indicated that the receive annual PREA training per the agency policy.

During staff interviews the staff were fluent in explaining how they would make a report if they received a disclosure, their first responder duties, and how to secure the scene when there is a sexual abuse allegation that requires the collection of evidence.

Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the facility is in compliance with the standard regarding employee training. No corrective action is required.

## Standard 115.332: Volunteer and contractor training

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

### 115.332 (a)

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

### 115.332 (b)

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

### 115.332 (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.

Documentation Reviewed:

- Facility PAQ
- Maryland DJS Policy: Elimination and Reporting of Sexual Abuse and Harassment – PREA Juvenile Facility Standards Compliance
- Maryland DJS Policy: Reporting and Investigating Child Abuse and Neglect
- PREA Training Chart
- Maryland DJS Policy: Staff Training
- Maryland DJS Policy: Incident Reporting-Residential Facilities and Community Operations
- Maryland DJS Policy: Volunteer Services
- Maryland State Department of Education Refresher Training Logs
- Waxter Training Sign-off for Contract Interpreter Services Providers

115.332(a)-1 All volunteers and contractors who have contact with residents have been trained on their responsibilities under the agency's policies and procedures regarding sexual abuse and sexual harassment prevention, detection, and response.

*b. Part-time and Contractual Staff Training*

*Part-time and contractual staff shall receive orientation and training according to their assigned job classification as indicated in the **Training Requirements Matrix (Appendix***

*c. Volunteer Training*

- 1) *Volunteers shall receive orientation and training in accordance with the Volunteer Services Policy and Procedure.*
- 2) *The DJS Community Services Coordinator, in conjunction with the PTEU where needed, may require and shall ensure that all volunteers receive any additional training that is appropriate to the Department's needs and the capacity in which they are volunteering.*

Interviews:

- Contract Staff
- Volunteer

Contractors and volunteers are required to complete PREA training for those that have direct access with residents. A review of the training curriculum indicate contractors receive the same training as DJS employees and the volunteers receive training that informs them of their mandatory reporter responsibility and how to make a report. The Waxter PAQ indicates the facility has twenty-eight (28) volunteers and fifty-seven (57) contractors who can access the facility to provide services to the residents.

An interview with a facility contract provider and volunteer indicated they received training that was similar to the training presented to the DJS Resident Advisor's (RA) and employees in specialized positions. The contract staff who participated in an interview was able to describe what to look for to prevent sexual abuse and sexual harassment and how to make a report when there is a disclosure. They were clear about their professional boundaries and how to assess the boundaries of others.

Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the facility is in compliance with this standard regarding volunteer and contractor training. No corrective action is required.

## Standard 115.333: Resident education

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

#### 115.333 (a)

- During intake, do residents receive information explaining the agency's zero-tolerance policy regarding sexual abuse and sexual harassment?  Yes  No
- During intake, do residents receive information explaining how to report incidents or suspicions of sexual abuse or sexual harassment?  Yes  No
- Is this information presented in an age-appropriate fashion?  Yes  No

#### 115.333 (b)

- Within 10 days of intake, does the agency provide age-appropriate comprehensive education to residents either in person or through video regarding: Their rights to be free from sexual abuse and sexual harassment?  Yes  No
- Within 10 days of intake, does the agency provide age-appropriate comprehensive education to residents either in person or through video regarding: Their rights to be free from retaliation for reporting such incidents?  Yes  No
- Within 10 days of intake, does the agency provide age-appropriate comprehensive education to residents either in person or through video regarding: Agency policies and procedures for responding to such incidents?  Yes  No

#### 115.333 (c)

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

#### 115.333 (d)

- Does the agency provide resident education in formats accessible to all residents including those who: Are limited English proficient?  Yes  No

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

### 115.333 (e)

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

### 115.333 (f)

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

#### Documentation Reviewed:

- Facility PAQ
- Maryland DJS Policy: Elimination and Reporting of Sexual Abuse and Harassment – PREA Juvenile Facility Standards Compliance
- Waxter Resident Training for PREA
- Maryland DJS Youth Statement of Receipt Policy and Procedure (Sample 2020, February-March 2021)
- End the Silence Curriculum



- Facility Intake Packet
- Residential Education Group Sign-offs
- Maryland DJS Youth Orientation Logs
- Maryland DJS Youth Orientation Video Review Youth Acknowledgement Form
- Maryland DJS PREA Posters

*115.333(a)-1 Residents receive information at time of intake about the zero-tolerance policy and how to report incidents or suspicions of sexual abuse or sexual harassment.*

#### Youth Education

- a. All youth, upon admission, shall receive information explaining the Department's zero tolerance policy for all acts of sexual abuse and sexual harassment and procedures for reporting incidents or suspicions of sexual abuse or sexual harassment. Accommodations shall be made to address the special needs of youth, to include youth with vision or hearing loss, limited reading ability, limited ability to read or understand English, and youth with intellectual, cognitive, developmental, mental health, or speech disabilities to provide for an understanding of all information presented.

*115.333(b)-1 The number of residents admitted in the past 12 months who received comprehensive age-appropriate education on their rights to be free from sexual abuse and sexual harassment, from retaliation for reporting such incidents, and on agency policies and procedures for responding to such incidents within 10 days of intake:*

- f. Within 10 calendar days of admission, Youth Advocates or a designee shall provide a comprehensive age-appropriate education to the youth, in person and through video, regarding their rights to be free from sexual abuse and sexual harassment, their right to be free from retaliation for reporting such incidents, and departmental policies and procedures for responding to such incidents.

#### Interviews:

- Random Staff
- Residents

Every resident will receive PREA training during the admission process. Resident interviews demonstrated the residents received PREA information during the intake process and the information is delivered within an hour of their arrival to the facility. The facility operating procedure states, "All new admissions entering the Detention Center will receive orientation at the Intake Office by the Intake Officer." The residents explained that they would meet with their case managers within 24 hours of their admission where they would receive additional PREA information by viewing a video. Additionally, the residents report they participate in weekly or biweekly refresher PREA education.

The facility PAQ indicates the facility admitted forty-eight (48) residents who received PREA information upon intake. The information is delivered to the resident via verbal communication and a brochure, and upon receiving the information the resident will sign the Zero Tolerance Memo, which will be placed in the resident's social folder. The PREA Coordinator provided the auditor with documentation which demonstrated that the residents receive PREA information during the intake process and ongoing education while they reside at the facility.

Waxter had zero tolerance posters and information about the different reporting methods posted throughout the facility. The posters were visible to the auditor on each of the housing units near the GTI phones. Resident interviews confirmed that the PREA posters and information is always posted throughout the facility and they review the information during their ongoing education sessions.

Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the facility exceeds compliance with this standard regarding resident education. No corrective action is required.

## Standard 115.334: Specialized training: Investigations

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

### 115.334 (a)

- In addition to the general training provided to all employees pursuant to §115.331, does the agency ensure that, to the extent the agency itself conducts sexual abuse investigations, its investigators have received training in conducting such investigations in confinement settings? [N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.321(a).]  Yes  No  NA

### 115.334 (b)

- Does this specialized training include: Techniques for interviewing juvenile sexual abuse victims? [N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.321(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 115.321(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 115.321(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 115.321(a).]  Yes  No  NA

### 115.334 (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 115.321(a).]  Yes  No  NA

### 115.334 (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

*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.*

#### Documentation Reviewed:

- Facility PAQ
- Maryland DJS Policy: Elimination and Reporting of Sexual Abuse and Harassment – PREA Juvenile Facility Standards Compliance
- Maryland State Police List of Barracks Contact Information
- Maryland State Police Policy: Response by Criminal Investigators
- Maryland State Child Protective Services Local Department Contact Information
- Website to the NIC Training Curriculum
- PREA Initial Training Chart

*115.334(a)-1 Agency policy requires that investigators are trained in conducting sexual abuse investigations in confinement settings. Check NA if the agency does not conduct administrative or criminal sexual abuse investigations.*

#### Employee training

- a. All employees who have direct contact with youth shall receive entry-level and annual training on the department's elimination and reporting of sexual abuse and harassment policy and procedures. They must also complete all other department approved training as listed in prea mandated training (appendix 2).

#### Interviews:

- Two Investigators
- PREA Coordinator
- PREA Compliance Manager

The OIG investigators conduct all administrative investigations. The investigators are employees of the state of Maryland but they are independent of DJS authority. The investigators communicated that they have completed the NIC investigations training as well as ongoing trainings offered by the OIG to fulfill their ongoing training requirements. All sexual abuse and sexual harassment allegations are referred to the OIG for administrative investigations and all criminal investigations are conducted by the MSP. There are eleven (11) administrative investigators assigned to conduct investigations involving Maryland DJS facilities.

Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the facility is in compliance with this standard regarding specialized training for investigations. No corrective action is required.

## Standard 115.335: Specialized training: Medical and mental health care

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

### 115.335 (a)

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

### 115.335 (b)

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

### 115.335 (c)

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

### 115.335 (d)

- Do medical and mental health care practitioners employed by the agency also receive training mandated for employees by §115.331?  Yes  No
- Do medical and mental health care practitioners contracted by and volunteering for the agency also receive training mandated for contractors and volunteers by §115.332?  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.*

#### Documentation Reviewed:

- Facility PAQ
- Maryland DJS Policy: Elimination and Reporting of Sexual Abuse and Harassment – PREA Juvenile Facility Standards Compliance
- PREA Initial Training Chart
- Maryland SAFE Programs Contact List

*115.335(a)-1 The agency has a policy related to the training of medical and mental health practitioners who work regularly in its facilities.*

#### Employee training

- a. All employees who have direct contact with youth shall receive entry-level and annual training on the department's elimination and reporting of sexual abuse and harassment policy and procedures. They must also complete all other department approved training as listed in prea mandated training (appendix 2).

#### Interviews:

- Contract Staff

The facility provided training certificates for the facility behavioral health and medical practitioners. Interviews with the behavioral health and medical practitioners indicated they received the specialized training through the NIC as well as the general PREA training that is provided to the facility staff. Both behavioral health and medical professionals receive annual PREA training and at the completion of the

training they sign an acknowledgement, which indicates they received the training and understand that they have a duty to make a report when there is knowledge or suspicion of sexual abuse or sexual harassment. Their response to the interview questions indicated they understand their role in the facility's coordinated response is to provide crisis and trauma care. They stated that they are mandatory reporters and as a result they would make a report "immediately" or "as soon as possible" when they receive a disclosure, or have knowledge or suspicion that a resident has been sexually abused or sexually harassed. They stated they would work closely with the facility to prevent, detect, and respond to incidents of sexual abuse and sexual harassment.

**Conclusion:**

Based upon the review and analysis of the available evidence, the auditor has determined the facility is in compliance with this standard regarding specialized training for medical and mental health care. No corrective action is required.

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

### **Standard 115.341: Screening for risk of victimization and abusiveness**

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

#### **115.341 (a)**

- Within 72 hours of the resident's arrival at the facility, does the agency obtain and use information about each resident's personal history and behavior to reduce risk of sexual abuse by or upon a resident?  Yes  No
- Does the agency also obtain this information periodically throughout a resident's confinement?  Yes  No

#### **115.341 (b)**

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

#### **115.341 (c)**

- During these PREA screening assessments, at a minimum, does the agency attempt to ascertain information about: Prior sexual victimization or abusiveness?  Yes  No
- During these PREA screening assessments, at a minimum, does the agency attempt to ascertain information about: Any gender nonconforming appearance or manner or identification as lesbian, gay, bisexual, transgender, or intersex, and whether the resident may therefore be vulnerable to sexual abuse?  Yes  No

- During these PREA screening assessments, at a minimum, does the agency attempt to ascertain information about: Current charges and offense history?  Yes  No
- During these PREA screening assessments, at a minimum, does the agency attempt to ascertain information about: Age?  Yes  No
- During these PREA screening assessments, at a minimum, does the agency attempt to ascertain information about: Level of emotional and cognitive development?  Yes  No
- During these PREA screening assessments, at a minimum, does the agency attempt to ascertain information about: Physical size and stature?  Yes  No
- During these PREA screening assessments, at a minimum, does the agency attempt to ascertain information about: Mental illness or mental disabilities?  Yes  No
- During these PREA screening assessments, at a minimum, does the agency attempt to ascertain information about: Intellectual or developmental disabilities?  Yes  No
- During these PREA screening assessments, at a minimum, does the agency attempt to ascertain information about: Physical disabilities?  Yes  No
- During these PREA screening assessments, at a minimum, does the agency attempt to ascertain information about: The resident's own perception of vulnerability?  Yes  No
- During these PREA screening assessments, at a minimum, does the agency attempt to ascertain information about: Any other specific information about individual residents that may indicate heightened needs for supervision, additional safety precautions, or separation from certain other residents?  Yes  No

#### 115.341 (d)

- Is this information ascertained: Through conversations with the resident during the intake process and medical mental health screenings?  Yes  No
- Is this information ascertained: During classification assessments?  Yes  No
- Is this information ascertained: By reviewing court records, case files, facility behavioral records, and other relevant documentation from the resident's files?  Yes  No

#### 115.341 (e)

- Has the agency implemented appropriate controls on the dissemination within the facility of responses to questions asked pursuant to this standard in order to ensure that sensitive information is not exploited to the resident's detriment by staff or other residents?  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.*

#### Documentation Reviewed:

- Facility PAQ
- Maryland DJS Policy: Admission and Release of Youth in DJS Facilities
- Maryland DJS Policy: Admissions, Orientation and Housing Classification of Youth
- Maryland DJS Policy: Classification of Youth in DJS Residential Facilities
- Maryland DJS Housing Classification Assessment
- Maryland DJS Housing Re-Assessment Form
- Maryland DJS Facility Initial Reception/Referral Screening Tool
- Maryland DJS Youth Vulnerability Assessment Instrument
- Sample Vulnerability Assessment

*115.341(a)-1 The agency has a policy that requires screening (upon admission to a facility or transfer to another facility) for risk of sexual abuse victimization or sexual abusiveness toward other residents.*

#### E. Classification and Unit Assignment

1. Within 24 hours of admission and periodically throughout a youth's confinement, information shall be obtained and used about each youth's personal history to reduce any safety risk to the youth and other youth. This information is obtained through conversations at admissions by the admissions officer, through medical and mental health screenings, during classification assessments, and by reviewing court records, case files, facility behavioral records, and other relevant documentation from the youth's file. The results are documented in the Housing Classification Assessment Instrument (Appendix 5).

2. The VAI (Appendix 4) is completed to determine the youth's risk of being victimized sexually or being sexually aggressive towards others; this risk screening along with the Housing Classification Assessment Instrument (Appendix 5) is completed to determine the youth's supervision level and special needs. The Admissions Officer will make an initial classification decision utilizing the results of these two screenings in accordance with the guidelines of the Classification of Youth in DJS Residential Facilities Policy and Procedure.

#### Interviews:

- Intake Staff
- Random Residents



Waxter is a DJS all-female detention facility. All Waxter residents are screened for vulnerabilities of victimization and sexually aggressive behavior 24 hours of their admission and periodically throughout their confinement. The risk assessment tool contains all of the eleven (11) elements required per paragraph (c) of the standard. The facility intake person will make an initial classification decision using the results of the vulnerability assessment. The risk screening information is obtained through conversation and using any available collateral information. Waxter admitted forty-eight (48) residents in the past 12 months whose length of stay in the facility was for 72 hours or more. According to staff interviews the residents are re-assessed every 60-days or when the resident was involved in a critical incident. A review of a sample of re-assessments demonstrates it is the facility's practice to complete the re-assessments as per policy.

Waxter intake staff are responsible for completing the initial screen and the resident's assigned case manager will complete additional screens. Once the risk assessment has been completed the information is used to complete the Housing Classification Assessment, which details the resident's room assignment and risk levels. Staff report they conduct and document an assessment of every resident at the time of intake or within 24 hours after a resident's arrival, as required per the agency policy. All staff and all residents interviewed confirmed this practice occurs. Residents are re-assessed at each new intake or return to the facility and any time circumstances dictate it is appropriate. Non-routine re-assessments are completed within 24 hours of a resident being involved in a third incident involving aggressive and assaultive behavior, within 24 hours of an attempt or actual escape or AWOL, suicide attempt, or involvement in a serious incident, and any time the youth's housing and supervision level is increased or decreased.

Interviews with all of the residents indicate they were asked if they identify as lesbian, gay or bisexual; about their gender identity; if they had a history of sexual abuse; and if they felt safe in the facility during their admission. Each resident indicated they understood the questions were asked to protect them and because the facility had a need to know.

Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the facility is in compliance with this standard regarding screening for risk of victimization and abusiveness. No corrective action is required.

## Standard 115.342: Use of screening information

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

#### 115.342 (a)

- Does the agency use all of the information obtained pursuant to § 115.341 and subsequently, with the goal of keeping all residents safe and free from sexual abuse, to make: Housing Assignments?  Yes  No
- Does the agency use all of the information obtained pursuant to § 115.341 and subsequently, with the goal of keeping all residents safe and free from sexual abuse, to make: Bed assignments?  Yes  No

- Does the agency use all of the information obtained pursuant to § 115.341 and subsequently, with the goal of keeping all residents safe and free from sexual abuse, to make: Work Assignments?  Yes  No
- Does the agency use all of the information obtained pursuant to § 115.341 and subsequently, with the goal of keeping all residents safe and free from sexual abuse, to make: Education Assignments?  Yes  No
- Does the agency use all of the information obtained pursuant to § 115.341 and subsequently, with the goal of keeping all residents safe and free from sexual abuse, to make: Program Assignments?  Yes  No

#### 115.342 (b)

- Are residents isolated from others only as a last resort when less restrictive measures are inadequate to keep them and other residents safe, and then only until an alternative means of keeping all residents safe can be arranged?  Yes  No
- During any period of isolation, does the agency always refrain from denying residents daily large-muscle exercise?  Yes  No
- During any period of isolation, does the agency always refrain from denying residents any legally required educational programming or special education services?  Yes  No
- Do residents in isolation receive daily visits from a medical or mental health care clinician?  Yes  No
- Do residents also have access to other programs and work opportunities to the extent possible?  Yes  No

#### 115.342 (c)

- Does the agency always refrain from placing: Lesbian, gay, and bisexual residents in particular housing, bed, or other assignments solely on the basis of such identification or status?  Yes  No
- Does the agency always refrain from placing: Transgender residents in particular housing, bed, or other assignments solely on the basis of such identification or status?  Yes  No
- Does the agency always refrain from placing: Intersex residents in particular housing, bed, or other assignments solely on the basis of such identification or status?  Yes  No
- Does the agency always refrain from considering lesbian, gay, bisexual, transgender, or intersex identification or status as an indicator or likelihood of being sexually abusive?  Yes  No

#### 115.342 (d)

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

#### 115.342 (e)

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

#### 115.342 (f)

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

#### 115.342 (g)

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

#### 115.342 (h)

- If a resident is isolated pursuant to paragraph (b) of this section, does the facility clearly document: The basis for the facility's concern for the resident's safety? (N/A for h and i if facility doesn't use isolation?)  Yes  No  NA
- If a resident is isolated pursuant to paragraph (b) of this section, does the facility clearly document: The reason why no alternative means of separation can be arranged? (N/A for h and i if facility doesn't use isolation?)  Yes  No  NA

#### 115.342 (i)

- In the case of each resident who is isolated as a last resort when less restrictive measures are inadequate to keep them and other residents safe, 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

*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.*

#### Documentation Reviewed:

- Facility PAQ
- Maryland DJS Policy: Admissions, Orientation and Housing Classification of Youth
- Waxter Unit Bed Chart
- Maryland DJS Policy: Classification of Youth in DJS Residential Facilities
- Maryland DJS Policy: Housing Plan for At-Risk Youth

*115.342 (b)-1 The facility has a policy that residents at risk of sexual victimization may only be placed in isolation as a last resort if less restrictive measures are inadequate to keep them and other residents safe, and only until an alternative means of keeping all residents safe can be arranged.*

#### B. Placement of Youth in Housing, Bed, Program, Education and Work Assignments

3. Youth may be separated from others only as a last resort when less restrictive measures are inadequate to keep them and/or other youth safe and then only until an alternative means of keeping all youth safe can be arranged. During any period of seclusion, youth shall not be denied daily large-muscle exercise, or any legally required educational programming or special education services. Youth shall be seen daily by health care professionals and qualified behavioral health professionals. Youth shall also have access to other programs and work opportunities to the extent possible. If a youth is in seclusion, the Superintendent must ensure that documentation placed in the youth's file identifies the basis for the concern for the youth's safety, and the reason why no alternative means of separation can be arranged.

*115.342 (c)-1 The facility prohibits placing lesbian, gay, bisexual, transgender, or intersex residents in particular housing, bed, or other assignments solely on the basis of such identification or status.*

#### B. Placement of Youth in Housing, Bed, Program, Education and Work Assignments

5. Lesbian, gay, bisexual, transgender, or intersex youth shall not be placed in particular housing, bed, or other assignments solely based on such identification or status, nor shall lesbian, gay, bisexual, transgender, or intersex identification or status be considered as an indicator of likelihood of being sexually abusive.

*115.342 (d)-1 The agency or facility makes housing and program assignments for transgender or intersex residents in a facility on a case-by-case basis*

## B. Placement of Youth in Housing, Bed, Program, Education and Work Assignments

4. In deciding whether to assign a transgender or intersex youth to a facility for male or female youth, and in making other housing and programming assignments, the Superintendent shall consider on a case-by-case basis whether placement would ensure the youth's health and safety, and whether the placement would present management or security problems. Within 72 hours of admission, the youth's placement shall be reviewed by the Facility Review Committee. The Facility Review Committee will be chaired by the Superintendent or designee and will consist of the following members: a qualified behavioral health professional, nursing supervisor or designee, education representative, and a GLM II or other direct care staff. The case shall be presented to the committee by the facility CMS. The FRC decision will be reviewed by the assigned Executive Director for Residential Services and the Deputy Secretary for Operations.

*115.342 (i)-1 If a resident at risk of sexual victimization is held in isolation, the facility affords each such resident a review every 30 days to determine whether there is a continuing need for separation from the general population.*

## B. Placement of Youth in Housing, Bed, Program, Education, and Work Assignments

4. The Superintendent shall ensure that each youth separated from the general population is reviewed every 30 days to determine whether there is a continuing need for the separation.

### Interviews:

- Intake Staff
- Random Staff
- Random Resident

Each resident at Waxter will be housed and assigned a room consistent with the room assignment requirements and the admission screening decision. The criteria for assigning housing classification and supervision level of a resident shall consider, the severity of the current charge or adjudication, severity of the most serious prior adjudication, the number of prior serious incidents in custody, age, size, special needs, and vulnerability to victimization and/or sexually aggressive behaviors or being the perpetrator of such behavior.

The facility does not have designated rooms for LGBTQI residents; therefore, room assignments are not based solely on the resident's sexual orientation or gender identity. The intake staff indicated they will consider multiple variables when making a housing and room assignment decision. Housing, bed, program, education, and work assignments are based on information obtained from assessments/risk screenings and any collateral information that is relevant to the resident.

Residents may be separated from others only as a last resort when less restrictive measures are inadequate to keep them and/or other youth safe and then only until an alternative means of keeping all youth safe can be arranged. Waxter does not have a room or area within the facility that is designated for a resident to be placed in isolation or on protective custody. Should the need arise the residents assigned room will be used temporarily as the room used to separate the resident from others. Interviews with the Executive of Residential Services, Superintendent and PREA Coordinator were emphatic that placing a resident in isolation, seclusion, or protective custody should be used as a last resort and only when there are no other means of keeping the resident or other residents safe. In any case that a resident is presenting a safety concern the facility would look for other means of maintaining safety (eg. Move to another unit, transfer to another facility, one-on-one staff supervision). The auditor checked the resident seclusion log and found that the facility utilizes seclusion very infrequently and most instances were for less than an hour. Interviews with the facility and behavioral health staff

indicate if a resident was placed in seclusion that they would provide services to the resident every hour until their status changed.

Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the facility exceeds compliance with this standard regarding use of screening information. No corrective action is required.

## REPORTING

### Standard 115.351: Resident reporting

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

#### 115.351 (a)

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

#### 115.351 (b)

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

#### 115.351 (c)

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

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

### 115.351 (d)

- Does the facility provide residents with access to tools necessary to make a written report?  Yes  No
- Does the agency provide a method for staff to privately report sexual abuse and sexual harassment of residents?  Yes  No

### Auditor Overall Compliance Determination

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

### 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.*

#### Documentation Reviewed:

- Facility PAQ
- Maryland DJS Policy: Elimination and Reporting of Sexual Abuse and Harassment – PREA Juvenile Facility Standards Compliance
- Maryland DJS Policy: Admission and Release of Youth in DJS Facilities
- Waxter Youth Handbook (English & Spanish)
- STARR Youth Handbook
- Maryland DJS PREA 2-1-1 Call Specialist Training
- 2-1-1 Sexual Abuse Hotline Poster (English and Spanish)
- Maryland 2-1-1 Hotline MOU
- 2-1-1 Memo
- Staff PREA Lesson: Staff Privately Report

*115.351 (a)-1 The agency has established procedures allowing for multiple internal ways for residents to report privately to agency officials about:*

- sexual abuse and sexual harassment;*
- retaliation by other residents or staff for reporting sexual abuse and sexual harassment; AND*
- staff neglect or violation of responsibilities that may have contributed to such incidents.*

## 9. Youth Education

- a. Each youth shall receive, and have access to, a facility Youth Handbook. Staff shall ensure that each youth understands its contents. The Youth Handbook shall provide detail on the multiple ways to report suspected or alleged incidents of sexual abuse and harassment, including, verbal and written reports or the use of the youth phone system.
- b. Youth shall be instructed and encouraged to report incidents to any DJS and MSDE staff member, to include, direct care staff, case managers, somatic or behavioral health staff, youth advocates, and parent/guardian or attorney.
- c. Youth shall be advised that they can report sexual abuse or harassment anonymously to a party that is not part of the Department using the youth phone system.

### B. Reporting

Staff must accept reports of alleged sexual abuse and harassment verbally, in writing, anonymously, or from third parties

#### *K. Retaliation*

The Department protects all youth and staff who report sexual abuse or harassment from retaliation by other youth or staff. Retaliation is prohibited against anyone who reports alleged sexual abuse or harassment.

*115.351 (b)-1 The agency provides at least one way for residents to report abuse or harassment to a public or private entity or office that is not part of the agency.*

### B. Reporting

Staff must accept reports of alleged sexual abuse and harassment verbally, in writing, anonymously, or from third parties

*115.351 (c)-1 The agency has a policy mandating that staff accept reports of sexual abuse and sexual harassment made verbally, in writing, anonymously and from third parties.*

### B. Reporting

Staff must accept reports of alleged sexual abuse and harassment verbally, in writing, anonymously, or from third parties. All reports shall be documented in an Incident Report prior to the end of the work day/shift.

#### Interviews:

- Random Staff
- Random Residents

The facility resident handbook identifies multiple ways for youth to report when they have been a victim or witnessed sexual harassment and sexual abuse. The resident interviews communicated that they can call 2-1-1, tell a trusted staff member, tell a third-party (i.e., parents/legal guardian, attorney, etc.), write a grievance, or call the local rape crisis center. The 2-1-1 hotline is designated as the number Maryland DJS resident can call from the facility GTL phones free of charge. The call can be made without staff permission; the call is not supervised by staff and the call is not recorded.

During the onsite audit the GTL phones were experiencing a software issue that did not allow the residents to dial directly to the 2-1-1 hotline. During the report writing phase of the audit the PREA Coordinator worked with the GTL provider to address the issue. The auditor received an email on June 3, 2021 to verify that the hotline was operating as intended.



If a resident were to write a grievance the Youth Advocate assigned to facility would respond to the resident's concerns. If the youth advocate were to receive a PREA related grievance they are mandated reporters and would initiate the reporting process, which includes notifying the facility to ensure the reporting resident is safe.

Waxter is a Maryland DJS facility which serves residents from throughout the state of Maryland either awaiting adjudication or those who have been committed. The facility would never detain a resident solely for civil immigration purposes.

Interviews with the facility staff members indicate they understand that they are responsible for accepting reports of sexual abuse that are made verbally, in writing, or those that are reported anonymously and through a third-party (i.e., another resident, parent, volunteer, etc.). Once a staff member receives a report they are required to notify their supervisor and create an incident report. The supervisor would then assume responsibility for making the appropriate notification to the OIG, MSP, CSP, and the appropriate agency leadership members. The staff consistently communicated that they would report the allegations to their supervisor "immediately" or "as soon as possible."

Staff consistently report that they can make a private report of sexual abuse or sexual harassment, retaliation by other residents or staff for making a report, and staff neglect or violation of responsibilities that may have contributed to the incident by reporting directly to the superintendent, or by calling the 2-1-1 hotline. Every staff member communicated that they felt safe that they could call the hotline without retribution and are not in fear of calling the hotline to make a report regarding any incident of abuse or neglect.

The information for making a report regarding PREA is available to the public on the Maryland DJS website <https://djs.maryland.gov/Pages/PREA.aspx>.

Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the facility is in compliance this standard regarding resident reporting. Residents are provided with numerous ways to report both internally and externally. No corrective action is required.

## Standard 115.352: Exhaustion of administrative remedies

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

### 115.352 (a)

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

### 115.352 (b)

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

#### 115.352 (c)

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

#### 115.352 (d)

- Does the agency issue a final agency decision on the merits of any portion of a grievance alleging sexual abuse within 90 days of the initial filing of the grievance? (Computation of the 90-day time period does not include time consumed by residents in preparing any administrative appeal.) (N/A if agency is exempt from this standard.)  Yes  No  NA
- If the agency determines that the 90-day timeframe is insufficient to make an appropriate decision and claims an extension of time [the maximum allowable extension of time to respond is 70 days per 115.352(d)(3)], does the agency notify the resident in writing of any such extension and provide a date by which a decision will be made? (N/A if agency is exempt from this standard.)  Yes  No  NA
- At any level of the administrative process, including the final level, if the resident does not receive a response within the time allotted for reply, including any properly noticed extension, may a resident consider the absence of a response to be a denial at that level? (N/A if agency is exempt from this standard.)  Yes  No  NA

#### 115.352 (e)

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

- If the resident declines to have the request processed on his or her behalf, does the agency document the resident's decision? (N/A if agency is exempt from this standard.)  
 Yes    No    NA
- Is a parent or legal guardian of a juvenile allowed to file a grievance regarding allegations of sexual abuse, including appeals, on behalf of such juvenile? (N/A if agency is exempt from this standard.)  Yes    No    NA
- If a parent or legal guardian of a juvenile files a grievance (or an appeal) on behalf of a juvenile regarding allegations of sexual abuse, is it the case that those grievances are not conditioned upon the juvenile agreeing to have the request filed on his or her behalf? (N/A if agency is exempt from this standard.)  Yes    No    NA

### 115.352 (f)

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

### 115.352 (g)

- If the agency disciplines a resident for filing a grievance related to alleged sexual abuse, does it do so ONLY where the agency demonstrates that the resident filed the grievance in bad faith? (N/A if agency is exempt from this standard.)  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.*

### Documentation Reviewed:

- Facility PAQ
- Maryland DJS Policy: Elimination and Reporting of Sexual Abuse and Harassment – PREA Juvenile Facility Standards Compliance
- Maryland DJS Policy: Youth Grievance
- Maryland DJS Policy: Admission and Release of Youth in DJS Facilities
- Emergency Grievances Memo

*115.352 (a)-1 The agency has an administrative procedure for dealing with resident grievances regarding sexual abuse.*

### 9. Youth Education

H. Locked boxes shall be placed in areas throughout the facility that are accessible to youth for submitting confidential grievance reports of sexual abuse or sexual harassment to Youth Advocates. No time limit shall be imposed on when a youth may submit a grievance regarding an allegation of sexual abuse. Youth are not required to use any informal grievance process or otherwise attempt to resolve with staff an alleged incident of sexual abuse

*115.352(d)-1 Agency policy or procedure allows a resident to submit a grievance regarding an allegation of sexual abuse at any time regardless of when the incident is alleged to have occurred.*

4.Orientation for youth shall include the following instructions to guide youth in the reporting of suspected or alleged sexual abuse or harassment.

1.Youth shall be instructed and encouraged to report any incident to any employee, case manager, somatic or behavioral health staff, parent/guardian/custodian, Youth Advocate, and/or attorney.

2.Youth will be encouraged to report incidents verbally, in writing or anonymously, if necessary.

3.Youth shall be encouraged to use the *Youth Grievance Policy and Procedure*. Within 10 calendar days of placement, youth will receive an orientation of the *Youth Grievance Policy and Procedure* and role of the Youth Advocates. All youth will be educated that locked boxes are placed in areas throughout the facility accessible to youth so that they

can submit confidential grievances. No time limit shall be imposed on when a youth may submit a grievance. Youth will be told that they are not required to use any informal grievance process or otherwise attempt to resolve with staff an alleged incident of sexual abuse.

*115.352 (c)-1 The agency's policy and procedure allow a resident to submit a grievance alleging sexual abuse without submitting it to the staff member who is the subject of the complaint.*

## 9. Youth Education

E. Youth shall be instructed and encouraged to report incidents to any DJS and MSDE staff member, to include, direct care staff, case managers, somatic or behavioral health staff, youth advocates, and parent/guardian or attorney.

H. Locked boxes shall be placed in areas throughout the facility that are accessible to youth for submitting confidential grievance reports of sexual abuse or sexual harassment to Youth Advocates.

*115.352 (f)-1 The agency has a policy established procedures for filing an emergency grievance alleging that a resident is subject to a substantial risk of imminent sexual abuse.*

### Emergency Grievance

Special procedures shall apply for grievances of an emergency nature.

1. Any staff receiving an emergency grievance from a youth shall immediately notify the Shift Commander. The Shift Commander shall notify the Superintendent or designee who shall direct the resolution of the grievance.

a. If the Superintendent or designee determines that the grievance is an emergency, he/she shall notify the Executive Director of Residential Services.

b. If the Superintendent determines the grievance is not an emergency, the Shift Commander shall inform the youth in writing, indicating the reason the grievance shall be processed as a regular grievance and have the youth sign and date the form. Such grievances shall be processed by the Youth Advocate as a routine grievance.

c. The Superintendent shall notify the Director of the Youth Advocacy Unit of all emergency grievances and the resolution.

### 2. Time Limits

Emergency grievances must be resolved within eight hours of receipt. A verbal response must be followed with a written response within 48 hours of receipt to the youth and the Director of the Youth Advocacy Unit.

*115.352 (f)-2 The agency's policy and procedures for emergency grievances alleging substantial risk of imminent sexual abuse require an initial response within 48 hours.*

*115.352 (f)-5 The agency's policy and procedure for emergency grievances alleging substantial risk of imminent sexual abuse require that a final agency decision be issued within 5 days.*

### 2. Time Limits

Emergency grievances must be resolved within eight hours of receipt. A verbal response must be followed with a written response within 48 hours of receipt to the youth and the Director of the Youth Advocacy Unit.

*115.352 (c)-2 The agency's policy and procedure requires that a resident grievance alleging sexual abuse not be referred to the staff member who is the subject of the complaint.*

## 9. Youth Education

E. Youth shall be instructed and encouraged to report incidents to any DJS and MSDE staff member, to include, direct care staff, case managers, somatic or behavioral health staff, youth advocates, and parent/guardian or attorney.

H. Locked boxes shall be placed in areas throughout the facility that are accessible to youth for submitting confidential grievance reports of sexual abuse or sexual harassment to Youth Advocates.

*115.352(d)-1 The agency's policy and procedures that require 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.*

Ensure youth are provided the grievance procedure as soon as practical after admission, but always within three business days of arrival at the facility.

The Youth Advocate shall meet with a youth as soon as possible, but always within three business days of when a grievance is filed or the Youth Advocate is notified that a youth would like to initiate a grievance.

The Youth Advocate shall investigate the grievance, complete *Grievance Form - Step III - Advocate Investigation and Mediation (Appendix 3)* and attempt to resolve the grievance within five business days of receipt.

The Superintendent shall schedule a conference with all involved parties within three working days of receiving written notice.

The Superintendent shall render a written decision within three business days of holding the conference and notify all appropriate parties of their decision.

The Executive Director for Residential Services shall hold the conference with the involved parties within five business days of receiving notification from the Director of the Youth Advocacy Unit.

The Office of the Secretary shall, within ten business days of receiving the grievance packet, conduct a review of the documentation submitted by the Director of the Youth Advocacy Unit and any additional information deemed appropriate, render a decision and notify all parties in writing of the Department's final decision.

*115.352 (e)-1 Agency policy and procedure permits third parties, including fellow residents, staff members, family members, attorneys, and outside advocates, to assist residents in filing requests for administrative remedies relating to allegations of sexual abuse, and to file such requests on behalf of residents.*

#### **9. Youth Education**

E. Youth shall be instructed and encouraged to report incidents to any DJS and MSDE staff member, to include, direct care staff, case managers, somatic or behavioral health staff, youth advocates, and parent/guardian or attorney.

I. Youth shall be advised that they can report sexual abuse or harassment anonymously to a party that is not part of the Department using the youth phone system. Instructions for use of the youth phone system shall be posted in each living unit. Youth shall be advised that these reports will be shared with the Department for investigation.

115.352 (e)-2 Agency policy and procedure require that if the resident declines to have third-party assistance in filing a grievance alleging sexual abuse, the agency documents the resident's decision to decline.

#### 9. Youth Education

E. Youth shall be instructed and encouraged to report incidents to any DJS and MSDE staff member, to include, direct care staff, case managers, somatic or behavioral health staff, youth advocates, and parent/guardian or attorney.

115.352 (g)-1 The agency has a written policy that limits its ability to discipline a resident for filing a grievance alleging sexual abuse to occasions where the agency demonstrates that the resident filed the grievance in bad faith.

#### J. INTERVENTIONS AND DISCIPLINARY SANCTIONS FOR YOUTH

5. For the purpose of disciplinary action, a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred, shall not constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation.

#### Interviews:

- PREA Coordinator

All resident's residing in a Maryland DJS facility may report an incident of sexual abuse or any other grievance at any time, regardless of the date the incident occurred. Upon receipt of an allegation of sexual abuse, the allegation is immediately forwarded to the Office of Inspector General (OIG) for assignment and investigation. All staff interviews indicate staff would never refer allegations of sexual abuse to a staff member who is named the subject of the allegation(s).

Any staff member who receives an emergency grievance shall "immediately" notify the shift commander. The Shift Commander shall notify the Superintendent or designee who shall direct the resolution of the grievance. If the Superintendent or designee determines that the grievance is an emergency, they shall notify the Executive Director of Residential Services.

Youth Advocate are responsible for collecting, reviewing and responding to all grievances submitted by the residents. If the youth advocate determines that the grievance is emergent and alleges sexual abuse, the grievance will be reported to the OIG, MSP, and CPS for an investigation. All emergency grievances must be resolved within eight (8) hours. A written response must be drafted and within 48 hours to the resident.

The PAQ indicates there were zero (0) grievances that alleged the resident was a victim of sexual abuse. This was supported by interviews with the PREA Coordinator, Superintendent, and specialized staff. .

A resident may be subject to sanctions pursuant to the behavior management program for filing a grievance only when DJS demonstrates the resident filed the grievance in bad faith. Of those interviewed residents who have submitted a grievance they report they did not feel they were retaliated against as a result of their grievance and felt the grievance process was fair even in those instances that they did not get the results that they wanted.

#### Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the facility is in compliance with this standard regarding exhaustion of administrative remedies. No corrective action is required.

## **Standard 115.353: Resident access to outside confidential support services and legal representation**

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

### **115.353 (a)**

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

### **115.353 (b)**

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

### **115.353 (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 residents 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

### **115.353 (d)**

- Does the facility provide residents with reasonable and confidential access to their attorneys or other legal representation?  Yes  No
- Does the facility provide residents with reasonable access to parents or legal guardians?  
 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.*

### Documentation Reviewed:

- Facility PAQ
- Maryland DJS Policy: Elimination and Reporting of Sexual Abuse and Harassment – PREA Juvenile Facility Standards Compliance
- 2-1-1 Sexual Abuse Hotline Poster (English and Spanish)
- Maryland Rape Crisis Recovery Center Contact List
- Maryland DJS Policy: Youth's Rights – Access to Legal Counsel and Outside Support Services
- Maryland DJS Policy: Visitation

*115.353 (a)-1 The facility provides residents with access to outside victim advocates for emotional support services related to sexual abuse by doing the following:*

*Gives residents (by providing, posting, or otherwise making accessible) mailing addresses and telephone numbers (including toll-free hotline numbers where available) of local, State, or national victim advocacy or rape crisis organizations.*

*Gives residents (by providing, posting, or otherwise making accessible) mailing addresses and telephone numbers (including toll-free hotline numbers where available) of immigrant service agencies for persons detained solely for civil immigration purposes.*

*Enables reasonable communication between residents and these organizations, in as confidential a manner as possible.*

*b. All youth admissions and orientation shall be completed in accordance with the guidelines of the Admissions and Orientation of Youth in DJS Facilities Policy and Procedures.*

*d. Each youth shall receive, and have access to, a facility Youth Handbook. Staff shall ensure that each youth understands its contents. The Youth Handbook shall provide detail on the multiple ways to report suspected or alleged incidents of sexual abuse and harassment, including, verbal and written reports or the use of the youth phone system.*

115.353(d)-1 *The facility provides residents with reasonable and confidential access to their attorneys or other legal representation.*

The Department of Juvenile Services (DJS) ensures all youth under its custody and care have access to family engagement strategies through increasing and encouraging telephone calls and mail correspondence, have confidential communications with their legal counsel, and are notified in a timely manner of an immediate family member's critical illness or death.

1. The Facility CMS shall enter approved telephone numbers into each youth's call list through the department's phone system. The department's phone system provides for restricted calls to the following:

1. parents, step-parents, legal guardians;
2. siblings and step-siblings;
3. maternal and paternal grandparents;
4. significant persons;
5. case worker and social worker; and
6. legal counsel.

Youth may send sealed letters to a specified class of persons and organizations, including but not limited to: courts, counsel, DJS Program Administrators or Executive Staff.

Access to Legal Counsel- Telephone Communications, Mail, and Visits

#### 1. General

a. Upon admission to a facility:

- 1) The Admission's Officer shall inform a youth that they may communicate with their legal counsel by telephone, uncensored mail, and visits.
- 2) The Facility CMS shall ensure that the name, address and telephone number of the youth's legal counsel is documented in the youth's base file.

b. Staff shall not offer legal advice to youth regarding the youth's case.

c. The facility operating procedures may impose limitations to the time and frequency of contact with a youth's legal counsel only to the extent that such limitations do not unfairly restrict a youth's access to legal counsel.

d. Youth may not be denied access to legal counsel as punishment or as a disciplinary action.

#### 2. Telephone Communications

a. Youth may make telephone calls to or receive telephone calls from legal counsel at any reasonable time.

b. Youth may not be denied access to telephone calls with their legal counsel for disciplinary reasons.

c. Youth may make requests to the Facility CMS to contact legal counsel regarding the best hours and dates legal counsel can be reached.

d. When a youth is unable or unavailable to receive a telephone call from their legal counsel, staff shall take a message and promptly relay the message to the youth and arrange for the telephone call later.

Incoming and outgoing mail to legal counsel is privileged communication and shall not be opened by staff unless substantial evidence exists of a security threat or contraband. In the event such evidence appears to exist, the mail may be opened. The mail shall be opened only in the presence of the youth from whom or to whom the mail is addressed, along with a second employee as a witness. Staff shall not read the contents of youth mail to or from legal counsel.

A youth's legal counsel shall be permitted to visit a youth during normal facility hours and after hours due to special circumstances. The Facility CMS shall generally assist with making arrangements for visits by counsel.

*115.353(d)-2 The facility provides residents with reasonable access to parents or legal guardians.*

#### Youth Mail

A youth's ability to send and receive correspondence shall be specified in writing, and be made available to all staff, youth, and their families. The facility guidelines shall be mailed to family members within 24 hours of the youth's admission.

#### Interviews:

- PREA Coordinator
- PREA Compliance Manager
- Random Residents

Maryland DJS and Waxter has established a relationship with their local rape crisis center to ensure that residents have access to outside victim advocates for emotional support services related to sexual abuse. In any instance that a resident alleges that they have been a victim of sexual abuse either in the facility or in their communities they are offered support services through Turn Around, Inc. When residents are afforded the ability to contact Turn Around, Inc. they can do so via telephone by calling the hotline number or by sending correspondence through the U.S. Postal service. Prior to the residents accessing the support services they are informed 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. Interviews with the Waxter case managers indicated if any resident requested a call to the rape crisis center, the staff member would dial the number from their office and leave the resident in the office while they observe from outside of the room. Visits with legal counsel shall have the right to meet with the resident that they represent at any reasonable time.

Liberal but reasonable time limits are placed on calls the residents are able to make to their legal and case related professionals. According to the case manager, legal calls are most often called from the case managers offices and are not charged against any phone privileges provided to the resident. The residents report that they are provided with stamps and have writing material available. Also, the Waxter residents are provided confidential visits with their attorney's and other professional staff.

Prior to the national pandemic the residents could have visits with their families at a minimum of two times per week for two hours per visit. Once the facility was quarantined as a result of the pandemic the Maryland DJS did not allow in-person interviews and implemented virtual visit. The residents were allowed two (2) 30-minute virtual visits per week, and three (3) 15-minute calls per week. During the onsite phase of the audit in-person were reinstated into the facility program and the decision was made to continue with the virtual visits. The staff report that DJS has increased resident visit with their families and report the facility is equipped to honor the increased access.

#### Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the facility is in compliance with this standard regarding resident access to outside confidential support services and legal representation. No corrective action is required.

## Standard 115.354: Third-party reporting

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

### 115.354 (a)

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

### Auditor Overall Compliance Determination

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

### 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.*

#### Documents Reviewed:

- Facility PAQ
- Maryland DJS Policy: Elimination and Reporting of Sexual Abuse and Harassment – PREA Juvenile Facility Standards Compliance
- Waxter School Information
- Waxter Orientation Post Card
- Maryland DJS Policy: Reporting and Investigating Child Abuse and Neglect
- Maryland PREA If You Suspect Notice
- Maryland DJS PREA Website

#### Interviews:

- PREA Coordinator

Maryland DJS has established methods to receive third-party reports of sexual abuse and sexual harassment on behalf of a resident; and the agency makes the information available on the agency website. Third parties, including fellow residents, staff, family members, attorneys, and outside advocates are permitted to assist youth in filing requests for administrative remedies and to file such a requests on behalf of the resident. According to the PREA Coordinator, the agency has not received a third-party report regarding any resident within a DJS facility.

Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the facility is in compliance with this standard regarding third-party reporting. No corrective action is required.

## OFFICIAL RESPONSE FOLLOWING A RESIDENT REPORT

### Standard 115.361: Staff and agency reporting duties

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

#### 115.361 (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 residents 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

#### 115.361 (b)

- Does the agency require all staff to comply with any applicable mandatory child abuse reporting laws?  Yes  No

#### 115.361 (c)

- Apart from reporting to designated supervisors or officials and designated State or local services agencies, are staff prohibited 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

#### 115.361 (d)

- Are medical and mental health practitioners required to report sexual abuse to designated supervisors and officials pursuant to paragraph (a) of this section as well as to the designated State or local services agency where required by mandatory reporting laws?  Yes  No

- Are medical and mental health practitioners required to inform residents of their duty to report, and the limitations of confidentiality, at the initiation of services?  Yes  No

### 115.361 (e)

- Upon receiving any allegation of sexual abuse, does the facility head or his or her designee promptly report the allegation to the appropriate office?  Yes  No
- Upon receiving any allegation of sexual abuse, does the facility head or his or her designee promptly report the allegation to the alleged victim's parents or legal guardians unless the facility has official documentation showing the parents or legal guardians should not be notified?  Yes  No
- If the alleged victim is under the guardianship of the child welfare system, does the facility head or his or her designee promptly report the allegation to the alleged victim's caseworker instead of the parents or legal guardians? (N/A if the alleged victim is not under the guardianship of the child welfare system.)  Yes  No  NA
- If a juvenile court retains jurisdiction over the alleged victim, does the facility head or designee also report the allegation to the juvenile's attorney or other legal representative of record within 14 days of receiving the allegation?  Yes  No

### 115.361 (f)

- 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.*

### Documentation Reviewed:

- Facility PAQ

- Maryland DJS Policy: Elimination and Reporting of Sexual Abuse and Harassment – PREA Juvenile Facility Standards Compliance
- Waxter Operating Procedure: Incident Reporting Procedure
- Maryland DJS Incident Reporting Form
- Maryland DJS Policy: Reporting and Investigating Child Abuse and Neglect
- Maryland State Statute: Child Abuse Reporting

115.361(a)-1 *The agency requires all staff to report immediately and according to agency policy any knowledge, suspicion, or information they receive regarding an incident of sexual abuse or sexual harassment that occurred in a facility, whether or not it is part of the agency.*

#### A. REPORTING

1. All staff shall report immediately and in accordance with the *Incident Reporting Policy and Procedures* and the *Reporting and Investigating Child Abuse and Neglect Policy and Procedures* any knowledge, suspicion, or information they receive regarding any incident of sexual abuse or harassment that occurred in a facility involving a youth, whether or not it is part of the Department; retaliation against youth or staff who reported such an incident; or any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.

#### Interviews:

- Executive of Committed Facilities
- Medical & Mental Health Staff
- Random Staff

All Waxter employees, professional visitors, volunteers, contract staff and/or other DJS employees are required to report any knowledge or any act of sexual misconduct. The employees are required to contact the Shift Commander who will begin to make the appropriate notifications to initiate an investigation. The duty to report extends to personal communications that may otherwise be privileged (i.e., attorney, clergy, medical practitioner, social worker, or mental health practitioner). If any part of the allegation includes neglect or abuse a report should be made to child protection services. The facility administrators will also report the allegation to the alleged victim's parents or legal guardian.

All information regarding any sexual misconduct is to be kept confidential and reporting or revealing any information related to a sexual abuse report is prohibited other than to the extent necessary to make treatment, investigation, and other security and management decisions.

The facility medical and behavioral health practitioners communicated that they are obligated to inform residents of their mandatory reporting requirements at the initiation of any services to a resident and the limitations of confidentiality.

#### Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the facility is in compliance with this standard regarding staff and agency reporting duties. No corrective action is required.

## Standard 115.362: Agency protection duties

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

### 115.362 (a)

- When the agency learns that a resident is subject to a substantial risk of imminent sexual abuse, does it take immediate action to protect the resident?  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.*

#### Documentation Reviewed:

- Facility PAQ
- Maryland DJS Policy: Elimination and Reporting of Sexual Abuse and Harassment – PREA Juvenile Facility Standards Compliance
- Sample Incident Reports Requiring Immediate Action

#### Interviews:

- Executive of Committed Facilities
- PREA Coordinator
- PREA Compliance Manager
- Random Staff

The facility PAQ indicates the three (3) PREA allegations received were responded to as if a resident was subjected to a substantial risk of imminent sexual abuse. In every instance the allegations involved sexual harassment. According to random staff interviews the staff explained they would "immediately" make a report to their supervisor if there is a concern that a resident is in imminent risk of sexual abuse. The staff said they would make the report to their supervisor to ensure protection measures are implemented. Also, the staff said they would either separate the resident from the alleged perpetrator or increase their supervision of the resident by positioning the resident in close proximity of the staff member.

#### Conclusion:



Based upon the review and analysis of the available evidence, the auditor has determined the facility is in compliance with this standard regarding agency protection duties. No corrective action is required.

## Standard 115.363: Reporting to other confinement facilities

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

#### 115.363 (a)

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

#### 115.363 (b)

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

#### 115.363 (c)

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

#### 115.363 (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.*

Documentation Reviewed:

- Facility PAQ
- Maryland DJS Policy: Elimination and Reporting of Sexual Abuse and Harassment – PREA Juvenile Facility Standards Compliance
- Maryland DJS Policy: Incident Reporting Procedure
- Maryland DJS Policy: Incident Reporting-Residential Facilities and Community Operations

115.363 (a)-1 The agency has a policy requiring that, upon receiving an allegation that a resident was sexually abused while confined at another facility, the head of the facility must notify the head of the facility or appropriate office of the agency or facility where sexual abuse is alleged to have occurred.

#### B. Reporting

1. Upon receiving an allegation that a youth was sexually abused while confined at another facility, within 72 hours the Superintendent that received the allegation shall notify the Superintendent where the alleged abuse occurred and immediately report the incident in accordance with the *Incident Reporting- Residential and Community Operations Policy and Procedures* and the *Reporting and Investigating Child Abuse and Neglect Policy and Procedures*.

#### Interviews:

- Executive of Committed Facilities

The Superintendent explained that the director to director notification is their responsibility and in their absence a designee is appointed according to the organizational structure. The superintendent communicated that they would also make the report directly to the OIG, MSP, and CSP. Per the policy the Superintendent has 72 hours to make the report; however, the superintendent reported they would make the report as soon as possible after receiving the information.

Once the report has been made to the appropriate authorities the Superintendent would fully cooperate with all investigations and would make the resident who made the allegation available to the investigator for an interview.

The facility PAQ indicates the facility received zero (0) allegation that a resident was abused while at another facility. Also, the PAQ indicates there were zero (0) allegations of sexual abuse the facility received from another facility.

#### Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the facility is in compliance with this standard regarding reporting to other confinement facilities. No corrective action is required.

## Standard 115.364: Staff first responder duties

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

#### 115.364 (a)

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

### 115.364 (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.*

### Documentation Reviewed:

- Facility PAQ
- Maryland DJS Policy: Elimination and Reporting of Sexual Abuse and Harassment – PREA Juvenile Facility Standards Compliance
- Waxter Facility Operating Procedures: First Responder's and Coordinated Response to Sexual Abuse and Harassment Incidents

115.364 (a)-1 The agency has a first responder policy for allegations of sexual abuse. If YES, the policy requires that, upon learning of an allegation that a resident was sexually abused, the first security staff member to respond to the report shall be required to (check all that apply):

(1) Separate the alleged victim and abuser

(2) Preserve And protect any crime scene until appropriate steps can be taken to collect any evidence.

(3) If the abuse occurred within a time period that still allows for the collection of physical evidence, request that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating.

(4) If the abuse occurred within a time period that still allows for the collection of physical evidence, ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating.

### C. Interventions

1. The first staff responding to an incident of alleged sexual abuse shall:

a. Ensure that the alleged victim and the alleged perpetrator are physically separated so that there is no possibility of contact and to prevent any continued communication.

b. Secure the incident area pending investigation and collection of evidence by the MSP. Use the PREA Response Kit to preserve physical evidence that may be on the youth or the youth's clothing.

c. Request that the alleged victim does not shower, eat, drink, brush their teeth, urinate, defecate, smoke or change clothes until after evidence is collected. Staff shall communicate to the alleged victim the importance of preserving evidence. If the alleged victim insists upon washing, the staff shall permit the victim to do so to avoid re-traumatizing.

d. Ensure that the alleged perpetrator does not shower, eat, drink, brush their teeth, urinate, defecate, smoke or change clothes until after evidence is collected. Use the PREA Response Kit to preserve physical evidence that may be on the youth or the youth's clothing.

e. Immediately notify medical staff and the Shift Commander of the alleged abuse to initiate services promptly.

Interviews:

- Staff First Responders
- Random Staff

Any person providing services to the residents have been trained as a first responder. A first responder is any person who: 1) witnessed the act of sexual misconduct, 2) witness the offender leaving the area of the victim, 3) witnessed the victim immediately following an incident, 4) was the person that the victim felt comfortable reporting the occurrence to, or 5) was the person that received information that an alleged incident occurred. The policy requires that the first responder separate the victim from the offender. The safety of the victim is the first priority. The potential crime scene should be kept secure with little or no persons permitted through the scene. The scene will remain sealed until such time after the investigator releases the scene. The direct care staff members at Waxter are not trained or required to collect evidence; their sole responsibility is to secure the potential crime scene. No attempt will be made to collect evidence except by a trained investigator.

The staff interviews indicated everyone was well versed and understood their first responder duties, and the intent is to ensure a thorough investigation can be conducted and to protect the residents.

The facility PAQ shows there were zero (0) allegations that a resident was sexually abused and the allegations required the collection of evidence.

Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the facility is in compliance with this standard regarding staff first responder duties. No corrective action is required.

## Standard 115.365: Coordinated response

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

### 115.365 (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.*

### Documents Reviewed:

- Facility PAQ
- Maryland DJS Policy: Elimination and Reporting of Sexual Abuse and Harassment – PREA Juvenile Facility Standards Compliance
- Waxter Facility Operating Procedures: First Responder's and Coordinated Response to Sexual Abuse and Harassment Incidents

Waxter has a written institutional plan that demonstrates the coordinated steps and the action steps that should take place in response to an incident of sexual abuse. This plan serves to define the duties of each person involved in the post-allegation response to an incident. The plan includes the duties and actions of each member, including staff first responders, supervisory staff, medical, behavioral health

professionals, and upper level management. The plan also includes coordination between facility leadership and the OIG, MSP, and CSP investigators, and any other investigative entity involved. The facility supervisors and specialized personnel were well aware of their individual responsibilities in coordinating their responses to sexual abuse and were able to articulate each step of their first responder duties in a coordinated response. The direct care staff were well aware of their duty to take seriously any knowledge, suspicion, or allegation of sexual abuse or sexual harassment and during staff interviews they indicated they would immediately notify the shift commander and their supervisor and create an incident report as required.

**Conclusion:**

Based upon the review and analysis of the available evidence, the auditor has determined the facility is in compliance with this standard regarding a coordinated response to an incident of sexual abuse. No corrective action is required.

## **Standard 115.366: Preservation of ability to protect residents from contact with abusers**

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

#### **115.366 (a)**

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

#### **115.366 (b)**

- Auditor is not required to audit this provision.

### **Auditor Overall Compliance Determination**

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

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

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

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

Documentation Reviewed:

- Facility PAQ
- Maryland DJS Standards of Conduct and Disciplinary Process (June 27, 2018)
- American Federation of State County and Municipal Employees Memorandum of Understanding

Interviews:

- Executive of Committed Facilities

Maryland DJS does not participate in collective bargaining nor any other form of agreement which may limit the Department's ability to remove an alleged staff abuser from contact with residents pending the outcome of the investigation, and if necessary, the extent to which disciplinary measures are applied.

Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the facility is in compliance with this standard regarding the preservation of ability to protect residents from contact with abusers. No corrective action is required.

## **Standard 115.367: Agency protection against retaliation**

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

#### **115.367 (a)**

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

#### **115.367 (b)**

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

#### **115.367 (c)**

- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor the conduct

and treatment of residents or staff who reported the sexual abuse to see if there are changes that may suggest possible retaliation by residents or staff?  Yes  No

- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor the conduct and treatment of residents who were reported to have suffered sexual abuse to see if there are changes that may suggest possible retaliation by residents or staff?  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 resident 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: Resident 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: Resident 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

#### 115.367 (d)

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

#### 115.367 (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

#### 115.367 (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.*

### Documentation Reviewed:

- Facility PAQ
- Maryland DJS Policy: Elimination and Reporting of Sexual Abuse and Harassment – PREA Juvenile Facility Standards Compliance
- Waxter Facility Operating Procedures: Reporting and Investigating Child Abuse and Neglect
- Maryland DJS Retaliation Monitoring
- Waxter Sample Retaliation Monitoring

*115.367)-1 The agency has a policy to protect all residents and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other residents or staff.*

### K. RETALIATION

1. The Department protects all youth and staff who report sexual abuse or harassment from retaliation by other youth or staff. Retaliation is prohibited against anyone who reports alleged sexual abuse or harassment. Youth may be disciplined for retaliation through the behavior management system and counseled.

### Interviews:

- Executive of Committed Facilities
- PREA Coordinator
- Random Staff Interviews
- Random Resident Interviews

Interviews convinced the auditor that if a resident expressed fear of retaliation for participating in or cooperating with an investigation of sexual abuse or sexual harassment against a resident, the Waxter staff would implement protocols to protect that resident against retaliation. The PREA Compliance Manager and Youth Advocate are designated as the individuals responsible for monitoring for possible retaliation. The Maryland DJS policy is clear that retaliation is prohibited against anyone who reports alleged sexual abuse or harassment.

The facility PAQ and resident interviews indicate there were zero (0) incidents of retaliation in the past 12 months.

Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the facility is in compliance with this standard regarding agency protection against retaliation. No corrective action is required.

## Standard 115.368: Post-allegation protective custody

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

### 115.368 (a)

- Is any and all use of segregated housing to protect a resident who is alleged to have suffered sexual abuse subject to the requirements of § 115.342?  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.*

### Documentation Reviewed:

- Facility PAQ
- Maryland DJS Policy: Elimination and Reporting of Sexual Abuse and Harassment – PREA Juvenile Facility Standards Compliance
- Maryland DJS Policy: Classification of Youth in DJS Residential Facilities
- Waxter Admissions, Orientation and Housing Classification of Youth

*115.368 (a)-1 The facility has a policy that residents who allege to have suffered sexual abuse may only be placed in isolation as a last resort if less restrictive measures are inadequate to keep them and other residents safe, and only until an alternative means of keeping all residents safe can be arranged.*

## B. Placement of Youth in Housing, Bed, Program, Education, and Work Assignments

1. DJS shall use all information obtained in the initial classification and any information obtained thereafter to make housing, bed, program, education, and work assignments for youth with the goal of keeping all youth safe and free from all forms of abuse.
2. Male and female youth do not occupy the same sleeping units or rooms.
3. Youth may be separated from others only as a last resort when less restrictive measures are inadequate to keep them and/or other youth safe and then only until an alternative means of keeping all youth safe can be arranged. During any period of seclusion, youth shall not be denied daily large-muscle exercise, or any legally required educational programming or special education services. Youth shall be seen daily by health care professionals and qualified behavioral health professionals. Youth shall also have access to other programs and work opportunities to the extent possible. If a youth is in seclusion, the Superintendent must ensure that documentation placed in the youth's file identifies the basis for the concern for the youth's safety, and the reason why no alternative means of separation can be arranged.
4. The Superintendent shall ensure that **each youth separated from the general population is reviewed every 30 days** to determine whether there is a continuing need for the separation.

### Interviews:

- Executive of Residential Services
- Superintendent
- Behavioral Health Practitioner

Interviews with the Superintendent indicate the facility would not segregate residents due to an allegation of sexual abuse or sexual harassment. A review of the facility seclusion logs demonstrates that the facility does not utilize isolation, seclusion, or protective custody as a behavior management tool or as a mechanism to protect residents. The seclusion log had documentation dating back to 2009; and a cursory review shows all residents were removed from the seclusion status within an hour. Interviews with residents indicate the facility does not have a separate area in the facility or a room used to isolate residents; and of the residents interviewed they all reported that they had not been placed in seclusion nor had they witnessed any of their peers in seclusion.

### Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the facility is in compliance with this standard regarding post-allegation protective custody. No corrective action is required.

## INVESTIGATIONS

### Standard 115.371: Criminal and administrative agency investigations

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

**115.371 (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 115.321(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 115.321(a).]  Yes  No  NA

**115.371 (b)**

- Where sexual abuse is alleged, does the agency use investigators who have received specialized training in sexual abuse investigations involving juvenile victims as required by 115.334?  Yes  No

**115.371 (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

**115.371 (d)**

- Does the agency always refrain from terminating an investigation solely because the source of the allegation recants the allegation?  Yes  No

**115.371 (e)**

- 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

**115.371 (f)**

- Do agency investigators assess the credibility of an alleged victim, suspect, or witness on an individual basis and not on the basis of that individual's status as resident or staff?  Yes  No

- Does the agency investigate allegations of sexual abuse without requiring a resident who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding?  Yes  No

#### 115.371 (g)

- 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

#### 115.371 (h)

- 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

#### 115.371 (i)

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

#### 115.371 (j)

- Does the agency retain all written reports referenced in 115.371(g) and (h) for as long as the alleged abuser is incarcerated or employed by the agency, plus five years unless the abuse was committed by a juvenile resident and applicable law requires a shorter period of retention?  Yes  No

#### 115.371 (k)

- 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

#### 115.371 (l)

- Auditor is not required to audit this provision.

#### 115.371 (m)

- 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 115.321(a).)  Yes  No  NA

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

#### Documentation Reviewed:

- Facility PAQ
- Maryland DJS Policy: Elimination and Reporting of Sexual Abuse and Harassment – PREA Juvenile Facility Standards Compliance
- Maryland Local Child Protection Services Contact List

*115.371 (a)-1 The agency/facility has a policy related to criminal and administrative agency investigations.*

#### D. INVESTIGATION

1. Staff shall refer all alleged incidents of sexual abuse, harassment or misconduct to CPS for investigation and determination of child abuse, and to MSP for the criminal investigation and determination of criminal charges. The Superintendent shall cooperate with outside investigators and shall endeavor to remain informed about the progress of the investigation.

2. Staff shall refer all allegations of sexual abuse and harassment to the DJS OIG. If the OIG completes an administrative investigation, the investigation shall include:

- a. efforts to determine whether staff actions or failures to act contributed to the abuse;
- b. a description of the physical and testimonial evidence;
- c. the reasoning behind credibility assessments; and
- d. investigative facts and findings.

3. All administrative investigations shall be documented in a written report.

4. The departure of the alleged perpetrator or victim from the employment or control of the facility or Department shall not be the basis for terminating an investigation.

5. The DJS OIG will assign an investigator who has received specialized training in investigating sexual abuse or harassment to coordinate cooperation with CPS and MSP.

6. The DJS OIG will notify the Superintendent if the CPS and MSP investigation will exceed 60 calendar days so that the victim may be notified of the extended investigation.

7. The Department shall retain written reports, administrative and criminal investigations provided by MSP, for as long the alleged perpetrator is incarcerated or employed by the Department, plus five years, unless the abuse was committed by a juvenile and applicable law requires a shorter period of retention.

*115.371 (d)-1 The agency does not terminate an investigation solely because the source of the allegation recants the allegation.*

3. All administrative investigations shall be documented in a written report. All administrative investigations are carried through to completion regardless of whether the alleged abuser or victim refuses to comply with the investigation and regardless of whether the source of the allegation recants his or her allegation.

*115.371 (j)-1 The agency retains all written reports pertaining to administrative or criminal investigation of alleged sexual abuse or sexual harassment for as long as the alleged abuser is incarcerated or employed by the agency, plus five years.*

7. The Department shall retain written reports, administrative and criminal investigations provided by MSP, for as long the alleged perpetrator is incarcerated or employed by the Department, plus five years, unless the abuse was committed by a juvenile and applicable law requires a shorter period of retention.

Interviews:

- PREA Coordinator
- Investigative Staff

Maryland DJS works with the Office of Inspector General (OIG) which is an independent body assigned to conduct all Waxter administrative investigations. The facility is responsible for making a report to the OIG so that an investigation can be initiated. All allegations of sexual misconduct will be taken seriously and investigated thoroughly by the OIG trained investigators. According to the administrative investigators sexual abuse and sexual harassment allegations will be investigated in a timely manner and the administrative investigators will impose no standards higher than a preponderance of the evidence.

All Waxter sexual abuse investigations will be referred to the Maryland State Police (MSP) for a criminal investigation. MSP would forward all a criminal complaint to the local prosecuting agency and the facility as well as the OIG will fully cooperate with MSP to support a thorough investigation and prosecution.

According to the PAQ there were zero (0) substantiated allegations of conduct that appeared to be criminal that were referred for prosecution since the last PREA audit. Of the three (3) allegations that were reported to the facility, the auditor received and reviewed the reports; and according to the PREA Coordinator the reports will be maintained in the Maryland DJS files.

Upon the conclusion of a criminal and administrative investigation, the facility will receive the report that includes the investigation findings. The report will be given to the superintendent who will then file the report in the facility master file for as long as the alleged abuser is in the custody of DJS, or employed by DJS, plus at least five years, unless the abuse was committed by a juvenile and applicable law requires a shorter period of retention.

Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the facility is in compliance with this standard regarding criminal and administrative agency investigations. No corrective action is required.

## Standard 115.372: Evidentiary standard for administrative investigations

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

### 115.372 (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.*

#### Documentation Reviewed:

- Facility PAQ
- Maryland DJS Policy: Elimination and Reporting of Sexual Abuse and Harassment – PREA Juvenile Facility Standards Compliance
- Maryland State Personnel and Pensions Code: Disciplinary Actions, Layoffs, and Employment Termination in State Personnel Management System: Disciplinary Actions

*115.372 (a)-1 The agency imposes a standard of a preponderance of the evidence or a lower standard of proof for determining whether allegations of sexual abuse or sexual harassment are substantiated.*

#### § 11-103. Miscellaneous provisions

- (a) Standard of proof.—Except as otherwise provided, the appointing authority has the burden of proof by a preponderance of the evidence in any proceeding under this subtitle. The head of a principal unit, the Secretary, and the Office of Administrative Hearings shall apply that standard of proof in appeals under this subtitle.

.01 Disciplinary Actions Generally.

D. The standard of proof in all disciplinary actions is a preponderance of the evidence.

.02 Mitigating Circumstances.



C. The Office of Administrative Hearings may not change the discipline imposed by the appointing authority, as modified by the head of the principal unit or Secretary, unless the discipline imposed was clearly an abuse of discretion and clearly unreasonable under the circumstances.

Interviews:

- Investigative Staff

Investigator interviews indicated the standard of evidence required to substantiate an allegation of sexual abuse or sexual harassment is based on the preponderance of the evidence standard.

Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the facility is in compliance with this standard regarding evidentiary standard for administrative investigations. No corrective action is required.

## Standard 115.373: Reporting to residents

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

### 115.373 (a)

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

### 115.373 (b)

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

### 115.373 (c)

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

resident has been released from custody, does the agency subsequently inform the resident whenever: The agency learns that the staff member has been indicted on a charge related to sexual abuse in the facility?  Yes  No

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

#### 115.373 (d)

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

#### 115.373 (e)

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

#### 115.373 (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.*

Documentation Reviewed:

- Facility PAQ
- Maryland DJS Policy: Elimination and Reporting of Sexual Abuse and Harassment – PREA Juvenile Facility Standards Compliance
- Youth Notice of Investigation Outcome Form
- Sample Youth Notice of Investigation Outcome Form
- Youth Notice of Investigation Outcome (Revised July 6, 2021)

*115.373(a)-1 The agency has a policy requiring that any resident who makes an allegation that he or she suffered sexual abuse in an agency facility is informed, verbally or in writing, as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded following an investigation by the agency.*

#### E. YOUTH NOTIFICATIONS

1. Following an investigation into a youth's allegations of sexual abuse suffered in a facility, the OIG and Superintendent shall request the relevant information from CPS in order to inform the youth whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded. The Superintendent or designee shall advise the youth in writing using the **Youth Notice of Investigative Outcome Form (Appendix 6)**.

2. Following a youth's allegation that a staff member has committed sexual abuse or harassment against the youth, the Superintendent or designee will subsequently inform the youth (unless the allegation is unfounded or the youth is no longer in DJS custody) whenever:

- a. The staff member is no longer posted within the youth's unit;
- b. The staff member is no longer employed at the facility;
- c. The Department learns that the staff member has been indicted on a charge related to sexual abuse within the facility; or
- d. The Department learns that the staff member has been convicted on a charge related to sexual abuse within the facility.

3. Following a youth's allegation that he or she has been sexual abused by another youth, unless the allegation is unfounded or the youth who was abused is no longer in DJS custody, the Superintendent or designee will subsequently inform the youth in writing whenever:

- A. The alleged perpetrator has been indicted on a charge related to sexual abuse within the facility; and
- B. The alleged perpetrator has been convicted on a charge related to sexual abuse within the facility.

#### Interviews:

- Investigative Staff
- PREA Coordinator

Maryland DJS policy requires at the conclusion of the investigation, written notification of the result (substantiated, unsubstantiated, or unfounded) will be given to the resident who has made the original allegation by the OIG and Superintendent for all sexual abuse allegations. The facility PAQ indicates there were three (3) administrative investigations of alleged sexual abuse in the past 12 months. The allegations involved resident-on-resident misconduct; and in those cases the allegations were referred to OIG and the findings were unsubstantiated. The facility provided documentation to demonstrate the residents received notifications about the outcome of the findings.

**RECOMMENDATION:** The Youth Notice of Investigation Outcome form does not have an area for the residents to sign. The auditor recommends that the Maryland DJS update the form to include a signature line and date for the resident and require that the form is filed in the resident's master file.

- During the report writing phase the PREA Coordinator forwarded the auditor a revised version of the Youth Notice of Investigation Outcome form that adopted the youth signature line.

Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the facility is in compliance with this standard regarding reporting to residents. No corrective action is required.

## DISCIPLINE

### Standard 115.376: Disciplinary sanctions for staff

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

#### 115.376 (a)

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

#### 115.376 (b)

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

#### 115.376 (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

#### 115.376 (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.*

### Documentation Reviewed:

- Facility PAQ
- Maryland DJS Policy: Elimination and Reporting of Sexual Abuse and Harassment – PREA Juvenile Facility Standards Compliance
- Maryland DJS Policy: Sexual Harassment/Employment Discrimination Policy
- Maryland Standards of Conduct and Disciplinary Process

*115.376(a)-1 Staff is subject to disciplinary sanctions up to and including termination for violating agency sexual abuse or sexual harassment policies.*

### H. DISCIPLINARY SANCTIONS FOR STAFF

1. Staff shall be subject to disciplinary sanctions up to and including termination for violating departmental sexual abuse and harassment policies and procedures. All disciplinary actions shall be in keeping with Maryland State personnel policy and procedures.
2. Termination shall be the presumptive disciplinary sanction for a staff who has engaged in sexual abuse.
3. Disciplinary sanctions for violations of departmental policies and procedures relating to sexual abuse and harassment (other than actually engaging in sexual abuse) shall be commensurate with the nature and circumstances of the acts committed, the staff's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories.
4. All terminations for violations of departmental sexual abuse and harassment policies and procedures, or resignations by staff that would have been a termination if not for their resignation, shall be reported to MSP and to any relevant licensing bodies unless the activity was clearly not criminal.
5. In accordance with applicable statutory and regulatory mandates, incidents involving staff may be referred to MSP for the determination of criminal charges.

During the auditors interview with the Superintendent they indicated that have full authority to place a staff member on a no-contact status with residents pending the outcome of an investigation with regards to any allegation of sexual abuse and/or threat against a resident, outcome of criminal proceeding bearing a connection to the employee's position, or other misconduct. The level of discipline will be determined on the severity of the violation. Employees will be made aware of expected and

acceptable levels of performance and notification will be documented and retained, the documentation will provide specifics and will avoid making conclusions that are not supported by facts.

The facility PAQ indicates there were zero (0) staff members terminated or resigned for violating the agency sexual abuse or sexual harassment policy.

The Maryland DJS policy provides that the agency will make a report to a licensing bodies unless the activity was clearly not criminal. Waxter has not imposed a disciplinary sanction against a staff member for violating the DJS sexual abuse and sexual harassment policy.

Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the facility is in compliance with this standard regarding disciplinary sanctions for staff. No corrective action is required.

## Standard 115.377: Corrective action for contractors and volunteers

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

### 115.377 (a)

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

### 115.377 (b)

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

### Auditor Overall Compliance Determination

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

### 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.*

Documentation Reviewed:

- Facility PAQ
- Maryland DJS Policy: Elimination and Reporting of Sexual Abuse and Harassment – PREA Juvenile Facility Standards Compliance
- Maryland DJS Policy: Volunteer Services
- Maryland DJS Youth Development Orientation and Training Volunteer Objectives

*115.377(a)-1 Agency policy requires that any contractor or volunteer who engages in sexual abuse be reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies.*

I. CORRECTIVE ACTION FOR CONTRACTORS AND VOLUNTEERS

1. Any contractor or volunteer who engages in sexual abuse shall be prohibited from contact with youth and shall be reported to law enforcement and to relevant licensing bodies unless the activity was clearly not criminal.
2. The Superintendent shall take remedial measures, and shall consider whether to prohibit further contact with youth, in the case of any other violation of departmental sexual abuse and harassment policy and procedure by a contractor or volunteer.

Interviews:

- Superintendent
- PREA Coordinator

Sexual conduct between staff and residents, volunteer, or contract personnel and a resident, regardless of consensual status, is prohibited and subject to administrative and criminal disciplinary investigation. Persons assigned as contract workers and volunteers must adhere to policies, regulations, and statutes of the agency or face loss of privilege to volunteer or contract with DJS. Contractors and volunteers are expected to clear the background check process, maintain confidentiality of information, and acknowledge receiving PREA training. In the past 12 months the facility did not have any sexual abuse allegations reported for a criminal investigation that was investigated by the OIG, MSP, or CSP.

Any contractor or volunteer who engages in sexual abuse or sexual harassment would be prohibited from having contact with Waxter residents and would be reported to the OIG for investigation.

According to the PAQ and interviews with the PREA Coordinator and the Superintendent certify that no volunteer or contractor has been restricted from contact with a resident at the facility nor has the facility had to enact any remedial measures against such individuals for violating DJS sexual abuse and sexual harassment policies within the past 12 months.

Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the facility is in compliance with this standard regarding corrective action for contractors and volunteers. No corrective action is required.

## Standard 115.378: Interventions and disciplinary sanctions for residents

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

### 115.378 (a)

- Following an administrative finding that a resident engaged in resident-on-resident sexual abuse, or following a criminal finding of guilt for resident-on-resident sexual abuse, may residents be subject to disciplinary sanctions only pursuant to a formal disciplinary process?  
 Yes  No

### 115.378 (b)

- Are disciplinary sanctions commensurate with the nature and circumstances of the abuse committed, the resident's disciplinary history, and the sanctions imposed for comparable offenses by other residents with similar histories?  Yes  No
- In the event a disciplinary sanction results in the isolation of a resident, does the agency ensure the resident is not denied daily large-muscle exercise?  Yes  No
- In the event a disciplinary sanction results in the isolation of a resident, does the agency ensure the resident is not denied access to any legally required educational programming or special education services?  Yes  No
- In the event a disciplinary sanction results in the isolation of a resident, does the agency ensure the resident receives daily visits from a medical or mental health care clinician?  Yes  No
- In the event a disciplinary sanction results in the isolation of a resident, does the resident also have access to other programs and work opportunities to the extent possible?  Yes  No

### 115.378 (c)

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

### 115.378 (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 offer the offending resident participation in such interventions?  Yes  No
- If the agency requires participation in such interventions as a condition of access to any rewards-based behavior management system or other behavior-based incentives, does it



always refrain from requiring such participation as a condition to accessing general programming or education?  Yes  No

#### 115.378 (e)

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

#### 115.378 (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

#### 115.378 (g)

- Does the agency always refrain from considering non-coercive sexual activity between residents to be sexual abuse? (N/A if the agency does not prohibit all sexual activity between residents.)  
 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.*

#### Documentation Reviewed:

- Facility PAQ
- Maryland DJS Policy: Elimination and Reporting of Sexual Abuse and Harassment – PREA Juvenile Facility Standards Compliance
- Waxter Youth Handbook (English & Spanish)
- Maryland DJS Policy: Classification of Youth in DJS Residential Facilities

*115.378(a)-1 Residents are subject to disciplinary sanctions only pursuant to a formal disciplinary process following an administrative finding that the resident engaged in resident-on-resident sexual abuse.*

## J. INTERVENTIONS AND DISCIPLINARY SANCTIONS FOR YOUTH

1. Youth may be subject to sanctions pursuant to the behavioral management program following an administrative finding that the youth engaged in youth-on-youth sexual abuse or following a criminal finding of guilt for youth-on-youth sexual abuse.

### Interviews:

- PREA Coordinator
- Medical & Mental Health Staff

The agency has an exhaustive resident discipline policy which includes due process. In the past 12 months the facility completed zero (0) administrative investigations for resident-on-resident allegations of sexual abuse. Waxter residents would never be sanctioned to specialized housing that would restrict their ability to participate in regular programming. The facility does not have a designated segregation unit and residents would not be placed in isolation or seclusion to protect them from the imminent threat of sexual abuse.

Waxter received zero (0) reports of sexual misconduct and sexual harassment incidents involving resident-on-resident. The facility did not receive any allegations of resident-on-staff allegations of sexual abuse.

### Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the facility is in compliance with this standard regarding interventions and disciplinary sanctions for residents. No corrective action is required.

## MEDICAL AND MENTAL CARE

### Standard 115.381: Medical and mental health screenings; history of sexual abuse

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

#### 115.381 (a)

- If the screening pursuant to § 115.341 indicates that a resident has experienced prior sexual victimization, whether it occurred in an institutional setting or in the community, do staff ensure that the resident is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening?  Yes  No

#### 115.381 (b)

- If the screening pursuant to § 115.341 indicates that a resident has previously perpetrated sexual abuse, whether it occurred in an institutional setting or in the community, do staff ensure that the resident is offered a follow-up meeting with a mental health practitioner within 14 days of the intake screening?  Yes  No

### 115.381 (c)

- 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

### 115.381 (d)

- Do medical and mental health practitioners obtain informed consent from residents before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the resident 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.*

#### Documentation Reviewed:

- Facility PAQ
- Maryland DJS Policy: Elimination and Reporting of Sexual Abuse and Harassment – PREA Juvenile Facility Standards Compliance
- Maryland DJS Policy: Behavioral Health and Substance Abuse Screening
- Admission Health Screening and Assessment
- Incident Report (Prior sexual victimization that resulted in a SAFE/SANE exam)

*115.381(a)-1 All residents at this facility who have disclosed any prior sexual victimization during a screening pursuant to §115.341 are offered a follow-up meeting with a medical or mental health practitioner.*

1. In addition to providing an appropriate health care and behavioral health response to sexual abuse, the facility shall offer health care and behavioral health evaluation and, as appropriate, treatment to all youth who have been victimized by sexual abuse.

2. If the Youth Vulnerability Assessment Instrument conducted at admission indicates that the youth has experienced prior sexual abuse or harassment, whether it occurred in an institutional setting or in the community, the youth shall be offered a follow-up meeting with a medical and mental health practitioner within 14 calendar days of admissions screening.

Interviews:

- Medical & Mental Health Staff

Residents admitted to Waxter are automatically screened by the facility medical and behavioral health staff upon admission. Every resident will meet with the facility medical staff after the intake process and before they are escorted to their assigned housing unit. The medical staff will screen the residents for a history of sexual victimization utilizing the Admission Health Screening and Nursing Assessment. Additionally, every new intake regardless if there is a history of sexual abuse will meet with the facility mental health practitioners to determine if there are any needs that need to be addressed.

Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the facility is in compliance with this standard regarding medical and mental health screenings; history of sexual abuse. No corrective action is required.

## Standard 115.382: Access to emergency medical and mental health services

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

#### 115.382 (a)

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

#### 115.382 (b)

- If no qualified medical or mental health practitioners are on duty at the time a report of recent sexual abuse is made, do staff first responders take preliminary steps to protect the victim pursuant to § 115.362?  Yes  No
- Do staff first responders immediately notify the appropriate medical and mental health practitioners?  Yes  No

#### 115.382 (c)

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

#### 115.382 (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

*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.*

#### Documentation Reviewed:

- Facility PAQ
- Maryland DJS Policy: Elimination and Reporting of Sexual Abuse and Harassment – PREA Juvenile Facility Standards Compliance
- Email correspondence between PREA Coordinator and MCASA Executive Director

*115.382 (a)-1 Resident victims of sexual abuse receive timely, unimpeded access to emergency medical treatment and crisis intervention services.*

*115.382(d)-1 Treatment services are provided to every victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.*

- 8. Emergency and ongoing medical and treatment services shall be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.

*115.382(c)-1 Resident victims of sexual abuse while incarcerated are offered timely information about and timely access to emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care, where medically appropriate.*

- f. Offer victims of sexual abuse timely information and timely access to prophylactic treatment for prevention of sexually transmitted infections, HIV, emergency contraception for pregnancy and access to this treatment, if not provided by the hospital.

#### Interviews:

- Medical & Mental Health Staff

According to the agency policy, residents will have unimpeded access to health care and a system in place for processing complaints regarding health care. These are communicated orally and in writing to residents upon arrival and are provided in a language that is clearly understood by the resident. Resident victims of sexual abuse have unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by medical and behavioral health practitioners according to their professional judgment. The facility did not receive any allegations of sexual abuse that required medical services or a SANE exam; therefore, there are no secondary materials demonstrating a resident received emergency medical treatment or crisis intervention services.

Any resident who is victimized while residing at Waxter will be offered timely information about and timely access to emergency contraception and treatment for any sexually transmitted infections. Victims of sexual abuse will be transported to UM Baltimore Washington Medical Center to receive the appropriate medical care.

Every resident residing in a Maryland DJS facility will receive medical and behavioral health care services without financial cost to the resident or the resident's family. Every resident is Medicaid eligible; therefore, DJS would be invoiced for payment. Additionally, the services are free of cost regardless of whether the victim names the abuser or cooperates with any investigations arising out of the incident.

Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the facility is in compliance with this standard regarding access to emergency medical and mental health services. No corrective action is required.

## **Standard 115.383: 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**

### **115.383 (a)**

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

### **115.383 (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

### **115.383 (c)**

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

#### 115.383 (d)

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

#### 115.383 (e)

- If pregnancy results from the conduct described in paragraph § 115.383(d), do such victims receive timely and comprehensive information about and timely access to all lawful pregnancy-related medical services? (N/A if all-male facility.)  Yes  No  NA

#### 115.383 (f)

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

#### 115.383 (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

#### 115.383 (h)

- Does the facility attempt to conduct a mental health evaluation of all known resident-on-resident abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate by mental health practitioners?  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.*

Documentation Reviewed:

- Facility PAQ
- Maryland DJS Policy: Elimination and Reporting of Sexual Abuse and Harassment – PREA Juvenile Facility Standards Compliance
- Medical and Behavioral Health Assessment Forms
- Maryland DJS Trauma Safety Plan for Alleged Sexual Abuse and Sexual Harassment

*115.383 (a)-1 The facility offers medical and mental health evaluation and, as appropriate, treatment to all residents who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility.*

*115.383 (d)-1 Female victims of sexually abusive vaginal penetration while incarcerated are offered pregnancy tests. Check NA for all-male facilities.*

*115.383 (e)-1 If pregnancy results from sexual abuse while incarcerated, victims receive timely and comprehensive information about, and timely access to, all lawful pregnancy-related medical services. Check NA for all-male facilities.*

*115.383 (f)-1 Resident victims of sexual abuse while incarcerated are offered tests for sexually transmitted infections as medically appropriate.*

*115.383 (h)-1 The facility attempts to conduct a mental health evaluation of all known resident-on-resident abusers within 60 days of learning of such abuse history and offers treatment when deemed appropriate by mental health practitioners.*

#### G. ONGOING HEALTH CARE AND BEHAVIORAL HEALTH SERVICES

1. In addition to providing an appropriate health care and behavioral health response to sexual abuse, the facility shall offer health care and behavioral health evaluation and, as appropriate, treatment to all youth who have been victimized by sexual abuse.
2. If the Youth Vulnerability Assessment Instrument conducted at admission indicates that the youth has experienced prior sexual abuse or harassment, whether it occurred in an institutional setting or in the community, the youth shall be offered a follow-up meeting with a medical and mental health practitioner within 14 calendar days of admissions screening.
3. If the Youth Vulnerability Assessment Instrument conducted at admission indicates that the youth has previously perpetrated sexual abuse, whether it occurred in an institutional setting or in the community, the youth shall be offered a follow-up meeting with a mental health practitioner within 14 calendar days of admissions screening.
4. The facility shall ensure that a behavioral health evaluation of all known youth-on-youth abusers is completed within 60 calendar days of learning such abuse history and offer treatment when deemed appropriate.
5. The evaluation and treatment of the victims and perpetrators shall include, follow-up services, treatment plans, and, when necessary, referrals for continued care following their transfer to or placement in other facilities or their release into the community.
6. The facility shall provide the victims and perpetrators with medical and mental health services consistent with continued care services in the community.
7. Emergency and ongoing medical and treatment services shall be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.
8. All information related to sexual abuse or harassment that occurred in a facility shall be strictly limited to health care professionals and QBHP and, as necessary, other DJS staff to inform treatment plans and security and management decisions, including housing, bed, work, education, and program assignments.



Interviews:

- Medical & Mental Health Staff

Any resident who is a victim of sexual misconduct will receive medical, crisis intervention, behavioral health treatment and any type of long-term follow-up care as needed by the Waxter medical and behavioral health professionals. Waxter is a secure institution with an onsite infirmary. There is 24-hour medical staff coverage including weekends and holidays. Victims of sexual abuse will be transported to the hospital utilizing appropriate security provisions when there is a treatment need and to ensure any evidence can be collected by a SANE nurse. The policy requires a mental health evaluation and the appropriate services for sexual abuse victims, including follow-up services, treatment plans, safety plans and referrals for continued care upon release or transfer to another Waxter facility.

Waxter is an all-female facility; therefore, the Maryland DJS policy does apply with regards to services for female residents where there was a violation that involved vaginal penetration. Since the facility serves female residents the facility would ensure the female resident received the necessary care, which includes tests for sexually transmitted infections and lawful pregnancy-related medical services.

Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the facility is in compliance with this standard regarding ongoing medical and mental health care for sexual abuse victims and abusers. No corrective action is required.

## DATA COLLECTION AND REVIEW

### Standard 115.386: Sexual abuse incident reviews

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

#### 115.386 (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

#### 115.386 (b)

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

#### 115.386 (c)

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

### 115.386 (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 §§ 115.386(d)(1) - (d)(5), and any recommendations for improvement and submit such report to the facility head and PREA compliance manager?  Yes  No

### 115.386 (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.*

### Documents Reviewed:

- Facility PAQ

- Maryland DJS Policy: Elimination and Reporting of Sexual Abuse and Harassment – PREA Juvenile Facility Standards Compliance
- Waxter Facility Operating Procedures: Sexual Abuse Incident Reviews
- Waxter List of Incident Review Team Members
- Maryland DJS Sexual Abuse Incident Team Review Form

*115.386 (a)-1 The facility conducts a sexual abuse incident review at the conclusion of every criminal or administrative sexual abuse investigation, unless the allegation has been determined to be unfounded.*

#### M. DATA COLLECTION AND REVIEW

##### 1. Facility Review of Sexual Abuse Incidents

- a. The facility shall conduct a review at the conclusion of every sexual abuse investigation, including when the allegation has not been substantiated, unless the allegation has been determined to be unfounded. The review shall occur within 30 calendar days of the conclusion of the investigation.
- b. Each facility shall establish a review team. The Superintendent shall assign an Assistant Superintendent and other upper level management staff to include line supervisors, investigators, medical and mental health staff to the review team.

Waxter did not have any sexual abuse allegations that resulted in a criminal and/or administrative investigation. There were three (3) incidents that involved resident-on-resident sexual harassment. Both sexual harassment allegations were unsubstantiated and the facility convened the Sexual Abuse Incident Review Team to discuss the allegations and to address high risk concerns and identify areas to improve. The incident review practice involves the leadership assessing the incident to identify any immediate concerns that would require corrective actions to mitigate identified risk. At the conclusion of an investigation which per policy should be complete within 20 days a incident review will be convened. Per policy the review team should be convened within 30-days at the conclusion of the OIG investigation. The review team at Waxter is made up of the superintendent, PREA Compliance Manager, medical and behavioral health staff, and the residents case manager. The OIG investigator will be invited but given their role they are not always available to attend the meetings.

Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the facility is in compliance with this standard regarding sexual abuse incident reviews. No corrective action is required.

## Standard 115.387: Data collection

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

### 115.387 (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

### 115.387 (b)

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

#### 115.387 (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

#### 115.387 (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

#### 115.387 (e)

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

#### 115.387 (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.*

#### Documentation Reviewed:

- Facility PAQ
- Maryland DJS Policy: Elimination and Reporting of Sexual Abuse and Harassment – PREA Juvenile Facility Standards Compliance
- Maryland DJS Policy: Incident Reporting-Residential Facilities and Community Operations

- Incident Reporting Form
- 2019 Survey of Sexual Victimization

115.387 (a)/(c)-1 *The agency collects accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions.*

### 3. Data Collection

- The Superintendent or designee shall ensure that incident reports documenting all allegations of sexual abuse and harassment are entered into the Department's incident database in accordance with the *Incident Reporting- Residential and Community Operations Policy and Procedures* and the *Reporting and Investigating of Child Abuse Policy and Procedures*.
- The Department's research unit shall aggregate the incident-based sexual abuse data at least annually.
- The Department shall maintain, review and collect data as needed from all available incident-based documents, including reports, investigative files, and the sexual abuse incident reviews.
- The Department shall also obtain incident-based and aggregated data from every private facility with which it contracts with for the confinement of youth.
- Upon request, the Department shall provide all such data from the previous calendar year to the U.S. Department of Justice.

Maryland DJS collects accurate, uniform data for every allegation of sexual abuse at the facilities under its control using the incident reports to collect the data associated with PREA incidents. The PREA Incident Review includes, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence published by the United States Department of Justice. Maryland DJS maintains, reviews, and collects data as needed from all available incident-based documents including reports, investigation files, and sexual abuse incident reviews. The PREA Coordinator stated he would review, collect all of the data including investigative reports and files, identify trends and implement corrective action accordingly.

Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the facility is in compliance with this standard regarding data collection. No corrective action is required.

## Standard 115.388: Data review for corrective action

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

#### 115.388 (a)

- Does the agency review data collected and aggregated pursuant to § 115.387 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 § 115.387 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 § 115.387 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

#### 115.388 (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

#### 115.388 (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

#### 115.388 (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.*

#### Documentation Reviewed:

- Facility PAQ
- Maryland DJS Policy: Elimination and Reporting of Sexual Abuse and Harassment – PREA Juvenile Facility Standards Compliance
- PREA Annual Report (2019 & 2020)

The Maryland DJS PREA Coordinator will review, analyze and use all sexual abuse data, including incident-based and aggregated data, to assess and improve the effectiveness of the agency sexual

abuse prevention, detection and response policies, practices and training. The PREA Coordinator will also ensure that all collected data is securely retained. Once the information is collected the PREA Coordinator will submit an annual report with redacted material to this supervisor for review. Once the review is complete the report will be forwarded to the Secretary for a signature, approval and publishing the report on the DJS website. Before making aggregated sexual abuse data publicly available, DJS will remove all personal identifiers. All PREA administrative and criminal investigation reports are retained for as long as the alleged offender is incarcerated or employed by the agency, plus five (5) years. The auditor accessed the Maryland DJS website and reviewed the reports from provided the auditor with annual sexual abuse data to demonstrate the information is collected annually; the reports were from 2015 to 2020.

Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the facility is in compliance with this standard regarding data review for corrective action. No corrective action is required.

## Standard 115.389: Data storage, publication, and destruction

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

### 115.389 (a)

- Does the agency ensure that data collected pursuant to § 115.387 are securely retained?  
 Yes  No

### 115.389 (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

### 115.389 (c)

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

### 115.389 (d)

- Does the agency maintain sexual abuse data collected pursuant to § 115.387 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.*

#### Documentation Reviewed:

- Facility PAQ
- Maryland DJS Policy: Elimination and Reporting of Sexual Abuse and Harassment – PREA Juvenile Facility Standards Compliance

115.389 (a)-1 *The agency ensures that incident-based and aggregate data are securely retained.*

#### 5. Data Storage, Publication and Destruction

- a. The Department shall ensure that data collected is securely retained.
- b. The Department shall make all 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.
- c. Before making sexual abuse data publicly available, the Department shall remove all personal identifiers.
- d. All sexual abuse records including, incident reports, investigative reports, juvenile information, case disposition, medical and counseling evaluation findings and/or recommendations for post- release treatment and/or counseling are retained in accordance with the Department's record keeping schedule.
- e. The Department shall maintain collected sexual abuse data for at least 10 years after the date of its initial collection unless federal, state, or local law requires otherwise.

The PREA Coordinator maintains all investigation reports that is derived from the OIG, MSP, and CSP; and the information is secured electronically. The TJJD annual report as well as the collected data is securely maintained for 10 years.

#### Conclusion:

Based upon the review and analysis of the available evidence, the auditor has determined the facility is in compliance with this standard regarding data storage, publication, and destruction. No corrective action is required.

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

### Auditor Overall Compliance Determination

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

### **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.*

Maryland DJS operates twelve (12) institutional facilities; and contracts with three (3) local and out of state providers for the confinement of DJS residents. Waxter is participating in a PREA audit for the third time, and each of the previous two audits resulted in a compliance finding. Maryland DJS has not had a request or a requirement from the Department of Justice (DOJ) to complete an expedited audit.

The auditor utilized the Auditor Compliance Tool for guidance on the conduct and contents of the audit. Maryland DJS has demonstrated their continued efforts to comply with the standards and has taken steps to not only implement the standards but to ensure that policies and practices are institutionalized throughout the agency. The audit process involved reviewing all relevant policies, reports, handbooks, training curriculum and supporting documents; as well as conducting staff, contactor/volunteer, and resident interviews. The auditor reviewed documents and records involving information from May 2020 until April 2021.

During the onsite audit as well as during the report writing phase of the audit, the auditor requested additional documentation to support the auditor's findings and received the documents within the necessary timeframe to issue the draft report to the facility within the required 45-days. All audit material relied upon has been retained by the auditor and will be uploaded to the Online Audit System and provided to the Department of Justice upon request.

Waxter staff, contractors, volunteers, residents, and the general public were able to send confidential information or correspondence to the auditor by writing a letter or sending an email. The auditor did not receive any correspondence.

The auditor submitted the Waxter report to the PREA Coordinator on July 2, 2021, for review. The PREA Coordinator and this auditor had a telephone call on July 16, 2021, to discuss any edits to the report. This auditor accepted the edit suggestions and submitted the final report to the PREA Coordinator on July 26, 2021.

#### **Conclusion:**

Based upon the review and analysis of the available evidence, the auditor has determined the facility is in compliance with this standard regarding frequency and scope of audits. No corrective action is required.

## Standard 115.403: Audit contents and findings

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

### 115.403 (f)

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

### Auditor Overall Compliance Determination

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

### Instructions for Overall Compliance Determination Narrative

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

The auditor certifies that no conflict of interest exists with respect to her ability to conduct an audit of the Waxter juvenile center.

This is the third audit for the Waxter juvenile facility.

## AUDITOR CERTIFICATION

I certify that:

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

### Auditor Instructions:

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



**Auditor Signature**

7-26-21

**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.