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**MEMORANDUM OF UNDERSTANDING**

Between

**Montana Department of Corrections**

And

**YWCA Missoula**

**I. PURPOSE**

This memorandum of understanding (MOU) between the MONTANA DEPARTMENT OF CORRECTIONS (MDOC) and YWCA MISSOULA (YWCA), is entered into in order to provide an additional means to report allegations of sexual abuse and sexual harassment in confinement, as required by the *Prison Rape Elimination Act* (PREA) (42 U.S.C. 15601ff; 2003) and the *Prison Rape Elimination Act* final rule (28 C.F.R. Part 115; 2012).

**II. OBJECTIVE**

The objective of this MOU is to provide an outline of the roles and responsibilities of MDOC and YWCA, to further their shared goals of providing services to victims of sexual abuse and sexual harassment in confinement, and to outline their understandings and intentions with regard to these shared goals. The parties seek to combine their respective resources in order to achieve these goals.

PREA Standards require MDOC and other agencies of the State's executive branch to attempt to make available a method of reporting allegations that is outside of MDOC. To achieve these objectives, MDOC and YWCA enter into this MOU in order to meet this requirement.

The parties enter into this MOU while maintaining their own separate and unique missions, mandates, and accountabilities. Unless specifically provided otherwise, the cooperation among the parties as outlined in this MOU shall not be construed as a partnership or other type of legal entity or personality. Each party shall accept full and sole responsibility for any and all expenses it incurs relating to this MOU. Nothing in this MOU shall be construed as superseding or interfering in any way with any agreements or contracts entered into among the parties, either prior to or subsequent to the signing of this MOU. Nothing in this MOU shall be construed as an exclusive working relationship. The parties specifically acknowledge that this MOU is not an obligation of funds, nor does it constitute a legally binding commitment by any party or create any rights in any third party.

**III. SCOPE OF AGREEMENT**

The designated service area covered by this MOU includes all confinement facilities under the operational control of MDOC, and privately-run facilities with which MDOC contracts for the confinement of offenders.

For the purpose of providing a method of reporting allegations that are outside of MDOC as described above, each party agrees to perform the following duties:

MDOC will:

- ⌚ Ensure that all Offenders in confinement facilities within the designated service area receive PREA information including, but not limited to:
  - How to report incidents or suspicions of sexual abuse or sexual harassment;
  - The telephone number of the hotline operated by YWCA.
- ⌚ Provide YWCA with a current and comprehensive list of confinement facilities within the designated service area including contact information, and update the list as necessary.
- ⌚ Receive and document all reports from YWCA, and
  - Notify the proper DOC authorities;
  - Inform all non-DOC authorities as necessary; and
  - Handle all necessary law enforcement notifications and referrals.
- ⌚ Collect, analyze, review, and report incident-based and aggregate data received from YWCA.
- ⌚ Provide training on a regular basis to YWCA staff and volunteers.
- ⌚ Provide technical assistance, guidance, and support to YWCA staff and volunteers on an ongoing basis.
- ⌚ Provide YWCA with reporting procedures, report templates and forms, and appropriate contact information to ensure proper and timely notification of all PREA calls received on the YWCA hotline.

YWCA will:

- ⌚ Provide 24-hour hotline, crisis intervention, and referral and support services to victims of sexual abuse in confinement facilities within the designated service area.
- ⌚ Notify MDOC's PREA Coordinator via email immediately of any case reported on the hotline.
- ⌚ Use the information provided by MDOC to refer offenders who call the hotline from out of the designated service area to appropriate authorities.

For the purposes of legal compliance, both parties understand and agree to the following:

- i. Confidentiality.** As a victim advocate service provider, and under the *Violence against Women Act* and the *Family Violence Prevention and Services Act*, YWCA has specific legal obligations regarding confidentiality that apply to its domestic and sexual violence programs, including the victim advocate services provided under this MOU.

Generally, YWCA:

- ⌚ Has a legal obligation to protect any personally identifiable information about a victim or client;
- ⌚ Will not release any information about the victim or client without clearly informed, written and signed, reasonably time-limited consent of the client; and
- ⌚ Will only share the specific information the client allows in a release; except where:
- ⌚ There is a risk of harm to self and/or others;

- ⌚ YWCA advocates are required by law to report suspected child abuse or neglect;
- ⌚ YWCA advocates are required by law to report allegations or incidents of sexual abuse or sexual harassment in confinement facilities; or
- ⌚ Necessary to seeking help in medical emergencies.

For the purposes of this MOU, therefore, YWCA's confidentiality requirements stipulate that:

- ⌚ A survivor of sexual abuse or sexual harassment retains the right to choose when, how, and what personal information will be shared, or not shared, and with whom; and
  - ⌚ YWCA and its advocates are responsible for respecting and honoring the victim's wishes and safeguarding any of the victim's or client's information that they collect or hold.
- ii. **Reporting.** PREA Standards impose obligations to collect, analyze, review, and report incident-based and aggregate data regarding allegations and incidents of sexual abuse and sexual harassment in confinement. Information received by YWCA regarding allegations or incidents of sexual abuse and sexual harassment in confinement will be documented in call sheets or incident report forms, and reported to MDOC in either:
- ⌚ Emergent case/incident reports; or
  - ⌚ Aggregate reports of call activity.
- iii. **Evaluation.** On or before June 30, 2018, both parties will produce and exchange final reports that:
- ⌚ Describe and analyze performance under this MOU;
  - ⌚ Provide information on the achievement of objectives;
  - ⌚ Identify challenges encountered, and new or continuing needs; and
  - ⌚ Provide recommendations for continuation of the relationship and providing services.

These reports will be submitted to the authorized representatives of MDOC and YWCA (whose names appear below), or their designees.

Following the submission of the final reports, the authorized representatives of MDOC and YWCA, or their designees, will meet to evaluate the success of the MOU, their interest in continuing the relationship and providing services, and, as necessary, the form the relationship should take (i.e. an extension of the current MOU, a new MOU, or a formal contract).

#### IV. PERIOD OF PERFORMANCE

This agreement shall be in effect upon signatures of all parties. Either party may terminate this MOU without cause by giving written notice of termination to the other party at least 30 days prior to the date fixed in such notice.

#### V. AMENDMENT

This MOU may be amended by mutual agreement of the parties in writing at any time during the term of the agreement. The party which desires an amendment will propose the amendment in writing to the authorized representative, or designee, for the other party.

## **VI. LIMITATIONS OF LIABILITY**

Both parties agree that neither party shall be liable for any property damage, personal injury, or death due to any act of negligence or willful misconduct on the part of the other party. Each party shall be responsible only for its own acts and the results of these acts to the extent authorized by law.

## **VII. ENTIRE AGREEMENT**

This MOU constitutes the entire agreement between the parties.

## **IX. DEFINITIONS**

For the purposes and objectives of this MOU, the definitions of relevant terms are found in the *Prison Rape Elimination Act* final rule, 28 C.F.R. §§ 115.5 – 115.6.

In addition, for the purposes and objectives of this MOU, the term –

*Confinement facility* means any of the four facility types identified in the *Prison Rape Elimination Act* final rule, including: adult prisons and jails; lockups; community confinement facilities; and juvenile facilities.

*Emergent* means an urgent, unexpected act, occurrence, or event which demands prompt action. Under PREA, all allegations and incidences of sexual abuse (or prison rape) are necessarily considered emergent and trigger a coordinated institutional response.

*Incident* means an action, occurrence, or event that interrupts normal procedure, precipitates a crisis, or has other significant consequences.

*Non-secure facility* means a facility that allows a resident access to the community to achieve treatment or correctional objectives, such as educational or employment programs.

*Secure facility* means a facility in which the movements and activities of individual inmates, detainees, or residents are restricted or subject to control through the use of physical barriers or intensive staff supervision.

## **X. NOTICE**

Any notices, demands, or communications required or permitted under this MOU must be made in writing to the authorized representatives, or their designees, of MDOC and YWCA. The names and signatures of these representatives appear below.

## XI. APPROVAL AND SIGNATURES

### DEPARTMENT

DocuSigned by:  
  
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Reginald D. Michael, Director  
Montana Department of Corrections

10/24/2017  
Date

Approved for Legal Content by:

DocuSigned by:  
  
FFF888678013447...  
Legal Counsel  
Department of Corrections

10/29/2017  
Date

### YWCA

DocuSigned by:  
  
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Patty Murphy, Administrator  
YWCA

11/3/2017  
Date