

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

Interim **XXX** Final

Date of Report September 27, 2018

Auditor Information

Name: Jillian Shane	Email: jillian.shane@state.nm.us
Company Name: Click or tap here to enter text.	
Mailing Address: 615 First Street, NW	City, State, Zip: Albuquerque, New Mexico 87102
Telephone: 505-383-2993	Date of Facility Visit: March 22-24, 2018

Agency Information

Name of Agency: Montana Department of Corrections		Governing Authority or Parent Agency (If Applicable): State of Montana	
Physical Address: 5 S. Last Chance Gulch		City, State, Zip: Helena, Montana 59601	
Mailing Address: Click or tap here to enter text.		City, State, Zip: Click or tap here to enter text.	
Telephone: 406-846-1320		Is Agency accredited by any organization? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
The Agency Is:	<input type="checkbox"/> Military	<input type="checkbox"/> Private for Profit	<input type="checkbox"/> Private not for Profit
<input type="checkbox"/> Municipal	<input type="checkbox"/> County	<input checked="" type="checkbox"/> State	<input type="checkbox"/> Federal
Agency mission: Click or tap here to enter text.			
Agency Website with PREA Information: https://cor.mt.gov/PREA			

Agency Chief Executive Officer

Name: Reginald Michael	Title: Director
Email: Reginald.michael@mt.gov	Telephone: 406-444-4913

Agency-Wide PREA Coordinator

Name: Michele Morgenroth	Title: PREA Coordinator
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Email: mmorgenroth@mt.gov	Telephone: 406-444-6583
PREA Coordinator Reports to: Kurt Aughney, Quality Assurance Director	Number of Compliance Managers who report to the PREA Coordinator 5

Facility Information

Name of Facility: Riverside Correctional Facility	
Physical Address: 2 Riverside Road, Boulder, Montana 59632	
Mailing Address (if different than above): Click or tap here to enter text.	
Telephone Number: 406-225-4500	
The Facility Is:	<input type="checkbox"/> Military <input type="checkbox"/> Private for profit <input type="checkbox"/> Private not for profit
<input type="checkbox"/> Municipal	<input type="checkbox"/> County <input checked="" type="checkbox"/> State <input type="checkbox"/> Federal
Facility Type:	<input type="checkbox"/> Jail <input checked="" type="checkbox"/> Prison
Facility Mission: Click or tap here to enter text.	
Facility Website with PREA Information: https://cor.mt.gov/PREA	

Warden/Superintendent

Name: Daniel Kissner	Title: Superintendent
Email: dkissner@mt.gov	Telephone: 406-225-4502

Facility PREA Compliance Manager

Name: Shawn P. Sonsteng	Title: Compliance Program Specialist
Email: ssonsteng.mt.gov	Telephone: 406-225-4501

Facility Health Service Administrator

Name: Jeanine Ford	Title: Nursing Supervisor
Email: jford@mt.gov	Telephone: 406-225-4504

Facility Characteristics

Designated Facility Capacity: 32	Current Population of Facility: 32
Number of inmates admitted to facility during the past 12 months	86

Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 30 days or more:		86	
Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 72 hours or more:		86	
Number of inmates on date of audit who were admitted to facility prior to August 20, 2012:		0	
Age Range of Population:	Youthful Inmates Under 18: NA	Adults: 19-64	
Are youthful inmates housed separately from the adult population?		<input type="checkbox"/> Yes	<input type="checkbox"/> No XXX NA
Number of youthful inmates housed at this facility during the past 12 months:		0	
Average length of stay or time under supervision:		98	
Facility security level/inmate custody levels:		NA	
Number of staff currently employed by the facility who may have contact with inmates:		32	
Number of staff hired by the facility during the past 12 months who may have contact with inmates:		2	
Number of contracts in the past 12 months for services with contractors who may have contact with inmates:		2	
Physical Plant			
Number of Buildings: 35		Number of Single Cell Housing Units: 0	
Number of Multiple Occupancy Cell Housing Units:		One unit with two sides (pods)	
Number of Open Bay/Dorm Housing Units:		0	
Number of Segregation Cells (Administrative and Disciplinary):		2	
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.):			
Current installed video system is not operational			
Medical			
Type of Medical Facility:		Clinical Nurse Office	
Forensic sexual assault medical exams are conducted at:		St. Pete Hospital, Helena Montana or St. James Community Hospital, Butte, Montana	
Other			
Number of volunteers and individual contractors, who may have contact with inmates, currently authorized to enter the facility:		21	
Number of investigators the agency currently employs to investigate allegations of sexual abuse:		7 Agency, 1 facility	

Audit Findings

Audit Narrative

On January 9, 2018, Montana Department of Corrections (MDOC) and New Mexico Corrections Department entered into a contract for a Department of Justice (DOJ) Prison Rape Elimination Act (PREA) Audit of Riverside Correctional Facility (RCF), located at 400 Conley Lake Road, Deer Lodge, Montana. Both participants are part of the Western Consortium. The contract stated that the PREA onsite portion of the audit would be conducted March 22-24, 2018.

A review of prior audits indicates that the RCF did have one prior PREA Audit and a final report was submitted on December 16, 2016.

On February 6, 2018, the auditor provided the PREA Coordinator with a flyer that stated "Be advised that during the days of March 22-23, 2018, a Department of Justice Certified Auditor will be on-site to audit our facility in reference to the Prison Rape Elimination Act (PREA). You may write to this auditor prior to his audit should you have any concerns or if you wish to speak with the auditor during the audit at Jillian Shane, 615 First Street, NW Albuquerque, New Mexico 87102. Please write on the envelope "For PREA Audit" and it will be treated as confidential legal mail"

The facility was given instructions to post the notice in all areas where staff, inmates and visitors may view. On February 6, 2018, photos were received from a staff member of the Riverside Correctional Facility. The photos depicted areas that the notice was posted. The photos did not contain a date or time stamp per the instructions. No inmate letters were received by the auditor prior neither to the audit nor to date.

On January 18, 2018, the auditor received a compact disk from RCF. The disk contained the facility Pre-Audit Questionnaire (PAQ) and all relevant documentation. A thorough evaluation of all documentation and material submitted was completed during the pre-audit phase. The documents reviewed included agency policies, procedures, forms, education material, training curriculums, rosters, organizational chart, posters, brochures and specific documents to illustrate compliance with the PREA standards. This review prompted a series of questions and answers between the auditor and the PREA Coordinator. All responses were completed in a timely manner and prior to the audit team arrival at the facility for the on-site portion of the audit.

On February 20, 2018, the Auditor emailed both The Moss Group, Inc and Just Detention International to ask if these organizations have received any recent complaints or compliance concerns from or in regards to Riverside Correctional Facility. Just Detention International responded and stated that they have not received any complaints or letters during the review period. The Moss Group did not repond.

The auditor emailed the facility the week prior to arrival and stated the following:

I would like to start by saying hello and that we are looking forward to the audit visit of your facility. I am reviewing documentation that was sent to me and will send a few emails for clarification or asking for documents that I know I will want/need to ensure compliance. Anything that I ask, you can just print and having waiting for us when we arrive. Also, please label with what I asked, as I will forget ☹️. I apologize for that but for the next week and a half before we arrive, I will be in and out all over my State and will not be able to adequately print or review.

Are your Warden and Executive management going to want to do in-briefs and out-briefs daily? I know many facilities differ so I just wanted to check.

Also, please have the following information available during the on-site PREA Audit:

- * Roster of staff working during all shifts (will interview random staff on all three shifts)*
- * Two Inmate rosters (random inmate interviews and file reviews)*
- * ALL THREE PREA allegations in the past 12 months*
- * List of all inmates that are Disabled and limited English proficient*
- * List of all inmates that are Transgender/Intersex inmates; gay/bisexual*
- * List of all inmates that are Inmates in segregated housing (for risk of sexual victimization) if applicable*
- * List of all inmates that are Inmates who reported a sexual abuse (please have the outcome handy so auditors are aware of situation prior to interview)*
- * List of all inmates that are Inmates who disclosed sexual victimization during risk screening*

We will need to interview the following individuals. You may set up interviews for any time while we are onsite, or provide us with a list of those who fit this role who will be onsite during the audit. If someone is not available, please coordinate a time to conduct a telephonic interview prior to the audit. We will need two private areas to conduct staff and inmate interviews, where other staff and inmates cannot overhear the conversations.

Staff:

- * Superintendent/Warden*
- * PREA Compliance Manager*
- * Medical staff*
- * Mental health staff*
- * Human Resources*
- * Volunteers AND contractors who have contact with inmates*
- * Investigative staff*
- * Staff who perform screening for risk of victimization and abusiveness*
- * Staff who supervise inmates in segregated housing*
- * Staff on the Incident Review Team*
- * Designated staff member charged with monitoring for retaliation*
- * First responders, both security and non-security*

* *Intake staff*

Inmate:

- * *Disabled and limited English proficient*
- * *Transgender/Intersex inmates; gay/bisexual*
- * *Inmates in segregated housing (for risk of sexual victimization) if applicable*
- * *Inmates who reported a sexual abuse (please have the outcome handy so auditors are aware of situation prior to interview)*
- * *Inmates who disclosed sexual victimization during risk screening*

We will need the name of a mental health services provider who can provide crisis intervention if necessary during inmate interviews. We will also need a staff member who will be available to provide translation services during interviews with limited English proficient inmates.

Upon arrival, the facility provided the auditor with memos indicating that the facility did not have any resident who are blind, deaf or hard of hearing; the facility did not have any residents with a physical disability; the facility did not have any residents who are limited English proficient; the facility did not have any transgender, gay, lesbian or bisexual residents; and that the facility did not have any residents placed in segregation housing.

The inmate population at the start of the review was 22.

The Audit Team arrived on-site on March 22, 2018. An opening meeting was held with:

- Jillian Shane, Lead Auditor
- Bernadette Deats, auditor support staff
- Dan Kissner, Superintendent
- Shawn Sonsteng, PREA Compliance Manager
- Michele Morgenroth, PREA Coordinator
- Kurt Aughney, Quality Assurance Director
- Alicia Tangen, Compliance Manager

Upon arrival, the facility provided the auditor with memos indicating that the facility did not have any residents who are blind, deaf or hard of hearing; the facility did not have any residents with a physical disability; the facility did not have any residents who are limited English proficient; the facility did not have any transgender, gay, lesbian or bisexual residents; and that the facility did not have any residents placed in segregation housing.

During the on-site portion of the tour, the audit team identified areas with poor visible, in need of additional mirrors or windows. In addition, some locks were identified that should be replaced to prevent locking from inside for inmate access or ensuring they are only accessible by staff if they are

restricted. The facility began to immediately correct these areas and send the audit pictures of each correction.

During the tour, at 1035 hours the audit team made a test call to the reporting line. The facility and staff at the agency level received information from the call and an email was generated by 1037 hours as an alert through the email system.

After the tour, the audit team began a file and documentation review as well as conducted interviews with staff and inmates.

The interviews conducted included:

Staff: (32 staff assigned to facility, 27 positions filled)

Agency contract administrator
Intermediate or higher level staff, 3
Medical and mental health staff, 2
Education and Program staff, 2
HR Staff, 1
SAFE/SANE Staff, 1 (via phone)
Volunteers/Contractors, 2 (one via phone)
Investigative Staff, 1
Staff who perform screenings, 2
Staff on incident review team, 2
Retaliation Monitor, 1
Intake Staff, 1
PCM, 1
PREA Coordinator, 1
Superintendent, 1
First responder, 1
Random Staff. 13

Inmates/Offenders: (22 present on first day, capacity 32)

Random, 9
Inmates who were involved in an incident, 1
(the remaining inmate categories were unable to be fulfilled due to no inmates meeting these classifications.

A closing meeting was held with:

- Jillian Shane, Lead Auditor
- Bernadette Deats, audit support staff

- Dan Kissner, Superintendent
- Shawn Sonsteng, PREA Compliance Manager
- Michele Morgenroth, PREA Coordinator
- Kurt Aughney, Quality Assurance Director

Facility Characteristics

The goal of Riverside Recovery and Reentry Program is to provide a safe, secure and trauma informed environment. Women can heal from trauma and abuse, gain insight into their subconscious patterns of behavior, learn new skills necessary to practice and implement coping techniques, understand, develop and implement positive aspects of self. Women are able to return to the community as whole, productive, law abiding citizens motivated to stay *on the 'Outs'*.

Riverside offers individual counseling with a LCSW and an LAC as well as medication continuance with an APRN. Riverside is offering evidence based programming that is gender specific for women. The current programming offerings at Riverside are as follows:

- **Healing the Trauma of Abuse** (facilitated by a full-time, on site LCSW).
 - This important self-help book describes a weekly lesson process that women can use to relieve the effects of trauma in their lives, either when working in a group, with a counselor, or when, as many women must do, working on their own. It rebuilds self-esteem and gives back the personal power, trust and sense of connection that are taken away by a traumatic experience.
- **Open To Change: 30 Session Evidence Based Chemical Dependency Program** (Facilitated by a full-time, on site LAC).
 - **Unit A** (10 sessions) in addition to core Pre-contemplation, Preparation, and Situational Confidence elements, the theme of this unit is successful management of internal risk factors and difficult symptoms.
 - **Unit B** (10 sessions) In addition to core Pre-contemplation, Preparation, and Situational Confidence elements, the theme of this unit is successful management of external risk factors and triggers.
 - **Unit C** (10 sessions) the theme of this unit is development of internal strengths and insight, and relapse prevention
- **MAV 25: Managing Aggression and Violence**
- **Educational Services** (facilitated by on-site licensed teaching staff).
 - HiSET preparation and testing Site.
 - Odysseyware for career readiness.
 - Physical Education and Fitness class.

- **Vocational Programming**
 - Restitution and internal work programs.
 - Limited Basic Crocheting, Sewing and Woodshop programs.
- **Love and Logic and Circle of Security Parenting Courses** (facilitated by a contract with Florence Crittenton).
- **Thinking for a Change.**
- **Recreational Program.** Access to a gym and fitness room as overseen by correctional counselors.

Each woman will have a Women’s Risk and Needs Assessment completed that will drive an individual treatment plan. Due to each person’s needs being unique the length of stay will be dependent on their needs and requirements. A typical length of stay is four months, but individual needs may require a longer stay. After-care planning is specific to each person’s individual needs. Riverside works in collaboration with an Institutional Probation and Parole Officer that will assist women in their release plans.

Riverside cannot accept women with severe medical needs due to availability of services. We cannot accept women who have a recent history of aggression or violence, particularly towards authority figures. We seek women who are motivated to complete the types of programs listed above. Severe mental health issues need to be stable before being screened for the program.

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: 0

Click or tap here to enter text.

- 115.11 Zero Tolerance of sexual abuse and sexual harassment; PREA Coordinator
- 115.12 Contracting with other entities for the confinement of inmates
- 115.13 Supervision and monitoring
- 115.14 Youthful inmates
- 115.15 Limits to cross-gender viewing and searches
- 115.16 Inmates with disabilities and inmates who are limited English proficient
- 115.17 Hiring and promotion decisions
- 115.18 Upgrades to facilities and technologies
- 115.21 Evidence protocol and forensic medical examinations
- 115.22 Policies to ensure referrals of allegations for investigations
- 115.31 Employee Training
- 115.32 Volunteer and contractor training
- 115.33 Inmate Education
- 115.34 Specialized training: Investigations
- 115.35 Specialized training: Medical and mental health care
- 115.41 Screening for risk of victimization and abusiveness
- 115.42 Use of screening information
- 115.43 Protective Custody
- 115.51 Inmate Reporting
- 115.52 Exhaustion of administrative remedies
- 115.53 Inmate access to outside confidential support services
- 115.54 Third-party reporting
- 115.61 Staff and agency reporting duties
- 115.62 Agency protection duties
- 115.63 Reporting to other confinement facilities
- 115.64 Staff first responder duties
- 115.65 Coordinated Response
- 115.66 Preservation of ability to protect inmates from contact with abusers
- 115.67 Agency protection against retaliation
- 115.68 Post-allegation protective custody
- 115.71 Criminal and administrative agency investigations
- 115.72 Evidentiary standard for administrative investigations
- 115.73 Reporting to inmates
- 115.76 Disciplinary sanctions for staff
- 115.77 Corrective action for contractors and volunteers
- 115.78 Disciplinary sanctions for inmates
- 115.81 Medical and mental health screenings; history of sexual abuse
- 115.82 Access to emergency medical and mental health services
- 115.83 Ongoing medical and mental health care for sexual abuse victims and abusers
- 115.86 Sexual abuse incident reviews
- 115.87 Data collection
- 115.88 Data review for corrective action
- 115.89 Data storage, publication, and destruction

- 115.401 Frequency and scope of audits
- 115.403 Audit contents and findings

Number of Standards Not Met: 0

Summary of Corrective Action (if any)

Standards that were in corrective action at the time of the interim report and have satisfactorily met all requirements of the standard during the review period were:

115.15 Limits to cross-gender viewing and searches

115.16 Inmates with disabilities and inmates who are limited English proficient

The facility will retrain and educate all staff on the process used for inmates who are LEP.

115.32 Volunteer and Contractor Training

The auditor recommended that the facility develop a process of oversight and review to ensure that the list in the necessary areas is current and consistent. In addition, a thorough review of the multiple lists should be completed to ensure that all approved and current contractors and volunteers are present and expired ones are removed. This list needed to be available to staff who needed to know such as front desk and supervisors.

115.41 Screening for risk of victimization and abusiveness

Based on the initial disclosure by the facility staff and the random review by the auditors in which selected files that were not being screened in a timely manner, the auditor recommended all staff be retrained in these standards and supervisory oversight and review be added to this process.

115.51 Inmate Reporting

115.53 Inmate access to outside confidential support services

115.61 Staff and Agency reporting duties

Staff interviewed were unaware of a need or availability for them to report confidentially

115.64 Staff first responder duties

115.67	Agency protection against retaliation
115.81	Medical and mental health screenings; history of sexual abuse No inmate files exist so the facility could not prove this. The BH Supervisor indicated she sees all inmates but shreds any notes and requests due to her ethics. The facility was tasked with developing a clear process and training all applicable staff.
115.82	No inmate files exist so no documentation could be provided.
115.83	Ongoing medical and mental health care for sexual abuse victims and abusers No inmate files exist so no documentation could be provided.

PREVENTION PLANNING

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

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

115.11 (a)

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

115.11 (b)

- Has the agency employed or designated an agency-wide PREA Coordinator? **XXX** Yes No
- Is the PREA Coordinator position in the upper-level of the agency hierarchy? **XXX** 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? **XXX** Yes No

115.11 (c)

- If this agency operates more than one facility, has each facility designated a PREA compliance manager?

(N/A if agency operates only one facility.) **XXX** 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.) **XXX** Yes No NA

Auditor Overall Compliance Determination

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

Documents and Policy Reviewed

Pre-Audit Questionnaire

Montana Policy Directive, DOC 1.1.17 *Prison Rape Elimination Act of 2003 (PREA)*

Riverside Correctional Facility Operational Procedure, *DOC 1.1.17, Prison Rape Elimination Act of 2003 (PREA)*

Montana Department of Corrections, Organizational Chart

State of Montana Job Description, PREA Program Manager

RCF, Organization Chart

Onsite Observations

Staffing

Interviews

PREA Coordinator

PREA Compliance Manager (PREA Specialist)

Quality Assurance Director

Findings

- (a) Montana Policy Directive, *DOC 1.1.17, Prison Rape Elimination Act of 2003 (PREA)* states in Section I that the Department of Correction has zero tolerance relating to all forms of sexual

abuse and sexual harassment in accordance with the standards set forth in the Prison Rape Elimination Act of 2003. The policy, which is eleven pages in length, continues on to outline the agency's approach to preventing, detecting and responding to such conduct. It includes but is not limited to: in terms of **prevention**, the policy speaks of inmate intake screenings and risk assessments, staffing plans, housing, LGBTI classification, and staff and inmate education and training; in terms of **detection**, the policy again outlines screenings and risk assessments, identifying indicators, LGBTI assessments, unannounced rounds, supervisory presence, and staff and inmate reporting; and lastly, in regards to **response**, the policy details the reporting process for both staff and inmates, the use of segregation, the investigation process and protocols, sanctions and aftercare in the event of an incident.

In addition to the agency policy, Riverside Correctional Facility (RCF) Operational Procedure, RCF 1.1.17, *Prison Rape Elimination Act of 2003*, also states that Riverside Correctional Facility has zero tolerance relating to all forms of sexual abuse and sexual harassment in accordance with the standards set forth in the Prison Rape Elimination Act of 2003. In addition to the sections above as they relate to prevention, detection and response, this RCF Operational Procedure outlines victim services that will be provide to an inmate in the event of an incident, both with facility mental health staff and off site with the Rape Crisis Center victim advocates. Lastly, this local procedure outlines retaliation monitoring that will be completed and the process related to.

- (b) Montana Policy Directive, *DOC 1.1.17, Prison Rape Elimination Act of 2003 (PREA)* states in Section IV.A.2. that the Department Director, or designee will appoint a department PREA Coordinator responsible for the following:
- a. Coordinating and developing procedures to identify, monitor and track sexual abuse and sexual harassment
 - b. Conducting audits to ensure compliance with Department policy, applicable state or federal laws and RPEA standards; and
 - c. Compiling records and reporting statistical data to the US Department of Justice on an annual basis as required by the PREA standards.

Michele Morgenroth is the Agency wide PREA Coordinator. An interview was conducted with Ms. Morgenroth. She detailed all of her job responsibilities and duties. It was evident throughout the course of this audit, in preparation, which on-site and during the corrective action period that she is knowledgeable, involved heavily in the process and implementation, and lastly, that she has sufficient time and authority. In regards to the Authority of Ms. Morgenroth, it appears to the auditor that this may be slightly lacking. Ms. Morgenroth has numerous channels to work through prior to implementing swift and direct change, as it relates to the facilities. Interviews with her direct supervisor and the Director of the Agency, however, did reveal that they are in support of her and PREA. The concern relates to the challenges that arise with multiple levels, bureaus and areas to work through to implement positive change and culture.

The Department Organizational Chart was reviewed which clearly illustrates the authority of both Ms. Morgenroth and her supervisor, the Quality Assurance Director. The State of Montana Job Description was also reviewed for this position, which clearly outline the role and responsibilities and in addition, illustrates the authority.

- (c) Montana Policy Directive, *DOC 1.1.17, Prison Rape Elimination Act of 2003 (PREA)* states in Section IV.A.3 that each administrator, or designee will assign a PREA specialist responsible for the following:
- a. Coordinating facility or program PREA related activities with the PREA Coordinator;
 - b. Ensuring facility or program compliance with all PREA standards;
 - c. Ensuring facility or program compliance with PREA training requirements; and
 - d. Tracking and reporting PREA allegation and statistics to the Department PREA Coordinator.

Shawn Sonsteng is the facility PREA Compliance Manager (identified as PREA Specialist in policy and hereafter). An interview was conducted with Mr. Sonsteng. He detailed all of his job responsibilities and duties. It was evident throughout the course of this audit, in preparation, which on-site and during the corrective action period that he is knowledgeable, involved heavily in the process and implementation, and lastly, that he has sufficient time and authority.

RCF provided the auditor with a facility organization chart which illustrated that the PCM has a direct line of communication and authority to the Superintendent.

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

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

115.12 (a)

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

115.12 (b)

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

Auditor Overall Compliance Determination

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

Documents and Policy Reviewed

Pre-Audit Questionnaire
Quality Assurance Office Audit Procedure Manual
DOC Contract with 5-C Juvenile Detention Center
DOC Contract with Dawson County
DOC Contract with Cascade County
DOC Contract with Crossroads Correctional Center

Interviews

PREA Coordinator
Quality Assurance Director

Findings

- (a) The State of Montana, Department of Contracts forwarded contracts to the Auditor to review. These contracts were with the DOC and 5-C Juvenile Detention Center, Dawson County, Cascade County, and Crossroads Correctional Center. The Contracts were each reviewed for compliance, and at a minimum had the following language: the Contractor will comply with the Prison Rape Elimination Act (PREA) 42 U.S.C. 15601 eg. Seq., all applicable PREA regulations, 28 CFR Part 115, and all applicable PREA standards. Contractor shall establish a zero tolerance policy to incidents of sexual assault/rape or sexual misconduct.
- (b) The Department of Corrections Quality Assurance Office Audit Procedure Manual states Contract review audits may be conducted on any contract help by the Department. The contract review audit instrument will include standards or requirements outlined in the contract. The contract for Crossroads Correctional Center in Shelby, Montana will be reviewed annually by the QAO. Contracts for other secure facilities, prerelease centers and treatment

facilities will be reviewed by the QAO every three years with site visits by Department employees in the intervening years intended to monitor contract requirements and progress towards compliance with audit recommendations. Unannounced site visits may be conducted to audit specific standards at any time. For planned contract reviews, the QAO will notify the facility administrator of the audit dates and request any applicable supporting documentation

After an interview and discussion with the Quality Assurance Director and the PREA Coordinator, it was identified that MDOC employs contract monitors whose sole duty is to monitor confinement contracts. The Director outlined these contract monitoring processes and duties.

Standard 115.13: Supervision and monitoring

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

115.13 (a)

- Does the agency ensure that each facility has developed a staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring, to protect inmates against sexual abuse? XXX Yes No
- Does the agency ensure that each facility has documented a staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring, to protect inmates against sexual abuse? XXX Yes No
- Does the agency ensure that each facility's staffing plan takes into consideration the generally accepted detention and correctional practices in calculating adequate staffing levels and determining the need for video monitoring? XXX Yes No
- Does the agency ensure that each facility's staffing plan takes into consideration any judicial findings of inadequacy in calculating adequate staffing levels and determining the need for video monitoring? XXX Yes No
- Does the agency ensure that each facility's staffing plan takes into consideration any findings of inadequacy from Federal investigative agencies in calculating adequate staffing levels and determining the need for video monitoring? XXX Yes No
- Does the agency ensure that each facility's staffing plan takes into consideration any findings of inadequacy from internal or external oversight bodies in calculating adequate staffing levels and determining the need for video monitoring? XXX Yes No
- Does the agency ensure that each facility's staffing plan takes into consideration all components of the facility's physical plant (including "blind-spots" or areas where staff or inmates may be isolated) in calculating adequate staffing levels and determining the need for video monitoring? XXX Yes No

- Does the agency ensure that each facility's staffing plan takes into consideration the composition of the inmate population in calculating adequate staffing levels and determining the need for video monitoring? XXX Yes No
- Does the agency ensure that each facility's staffing plan takes into consideration the number and placement of supervisory staff in calculating adequate staffing levels and determining the need for video monitoring? XXX Yes No
- Does the agency ensure that each facility's staffing plan takes into consideration the institution programs occurring on a particular shift in calculating adequate staffing levels and determining the need for video monitoring? XXX Yes No NA
- Does the agency ensure that each facility's staffing plan takes into consideration any applicable State or local laws, regulations, or standards in calculating adequate staffing levels and determining the need for video monitoring? XXX Yes No
- Does the agency ensure that each facility's staffing plan takes into consideration the prevalence of substantiated and unsubstantiated incidents of sexual abuse in calculating adequate staffing levels and determining the need for video monitoring? XXX Yes No
- Does the agency ensure that each facility's staffing plan takes into consideration any other relevant factors in calculating adequate staffing levels and determining the need for video monitoring? XXX Yes No

115.13 (b)

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

115.13 (c)

- In the past 12 months, has the facility, in consultation with the agency PREA Coordinator, assessed, determined, and documented whether adjustments are needed to: The staffing plan established pursuant to paragraph (a) of this section? XXX 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? XXX 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? XXX Yes No

115.13 (d)

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

Auditor Overall Compliance Determination

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

Documents and Policy Reviewed

Pre-Audit Questionnaire
Montana Policy Directive, DOC 1.1.17 *Prison Rape Elimination Act of 2003 (PREA)*
PREA Annual Staffing Plan Review, dated December 19, 2017

Onsite Observations

Staffing

Interviews

PREA Coordinator
PREA Compliance Manager (PREA Specialist)
Warden

Findings

- (a) The RCF Annual Staffing Plan Review Meeting, which was conducted December 19, 2017, and outlines the PREA staffing plan which includes consideration of PREA Incident Reviews, state and local laws, findings of inadequacy, and incidents of sexual abuse, whether substantiated or

unsubstantiated. It also states that during the evaluation of staffing requirements, the Facility PREA Compliance Manager and PREA Coordinator will assess, determine and document the facility staffing plan.

In addition, MDOC Policy Directive Number 1.1.17 states in section C. 2. that the Administrators will develop, document and make 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 inmates against sexual abuse. In circumstances where the staffing plan is not complied with, facilities will document and justify all deviations from the plan.

Policy RCF 1.1.17 also states that the Superintendent, PREA Compliance Manager and Unit Supervisors are required to develop, document, and make 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 resident against abuse. In circumstances where the staffing plan is not complied with, deviations from the plan will be documented in the log by staff.

- (b) MDOC Policy Directive Number 1.1.17 states in section C. 2. that the Administrators will develop, document and make 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 inmates against sexual abuse. In circumstances where the staffing plan is not complied with, facilities will document and justify all deviations from the plan.

The PAQ stated that during the twelve (12) month preceding the audit, there were no instances whereas RCF deviated from the staff plan.

- (c) The RCF Annual Staffing Plan Review Meeting, which was conducted December 19, 2017, and outlines the PREA staffing plan which includes consideration of PREA Incident Reviews, state and local laws, findings of inadequacy, and incidents of sexual abuse, whether substantiated or unsubstantiated. It also states that during the evaluation of staffing requirements, the Facility PREA Compliance Manager and PREA Coordinator will assess, determine and document the facility staffing plan.

- (d) Montana Policy Directive, DOC 1.1.17 *Prison Rape Elimination Act of 2003 (PREA)* further states that Administrators will require intermediate-level and higher-level staff to conduct and document unannounced rounds to identify and deter inmate and staff sexual abuse and sexual harassment. These rounds must be documented and cover all shifts and all areas of the facility. The facility must prohibit staff from alerting other staff of the conduct of such rounds.

While on-site, logs from each housing area were reviewed and illustrated that unannounced rounds were logged.

Standard 115.14: Youthful inmates

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

115.14 (a)

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

115.14 (b)

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

115.14 (c)

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

Auditor Overall Compliance Determination

Exceeds Standard (*Substantially exceeds requirement of standards*)

XXX 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

Documents and Policy Reviewed

Pre-Audit Questionnaire

Montana Policy Directive, DOC 4.6.9, *Placement & Reporting of Youth with Adult Services*
Memo

Onsite Observations

Inmate population

Interviews

PREA Coordinator

PREA Compliance Manager (PREA Specialist)

Warden

Findings

A memo was provided to the auditor from the MDOC PREA Coordinator which states that Riverside Correctional Facility transitioned from a youth facility to an adult facility in 2016. The last date a youth was housed at the facility was on July 17, 2016.

The PAQ states that the facility has not housed any youthful offenders in the facility in the past twelve months.

Standard 115.15: Limits to cross-gender viewing and searches

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

115.15 (a)

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

115.15 (b)

- Does the facility always refrain from conducting cross-gender pat-down searches of female inmates in non-exigent circumstances? (N/A here for facilities with less than 50 inmates before August 20, 2017.) XXX Yes No NA

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

115.15 (c)

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

115.15 (d)

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

115.15 (e)

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

115.15 (f)

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

Auditor Overall Compliance Determination

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

Documents and Policy Reviewed

Pre-Audit Questionnaire
Montana Policy Directive, DOC 1.1.17 *Prison Rape Elimination Act of 2003 (PREA)*
Riverside Correctional Facility Operational Procedure, *DOC 1.1.17, Prison Rape Elimination Act of 2003 (PREA)*
Montana Policy Directive, DOC 3.1.17, *Searches and Contraband Control*
Montana Policy Directive, DOC 3.1.21, *Inmate Count and Supervision*
Cross Gender Supervision PowerPoint and Lesson Plan
Cross Gender Supervision Handout

Onsite Observations

Housing Areas
Non-housing and program areas

Interviews

PREA Coordinator
PREA Compliance Manager (PREA Specialist)
Random Staff
Inmates
Supervisory Staff

Findings

- (a) Interviews with staff of various levels of supervision indicated that they there were aware of this requirement and, in addition, indicated that there was not an instance of this occurring that could be recalled. No inmate is every searched at this facility; strip searched or pat searched. As part of the corrective action, the facility edited the search policy and sent to the auditor when it was complete.
- (b) RCF houses only female inmates

(c) MDOC Policy 3.1.17, *Searches and Contraband Control* states that procedures must require staff to document all searches, excluding pat searches that do not result in the discovery of contraband or result in a disciplinary write-up. Documentation is submitted to the chief of security, or designee in accordance with *DOC 3.1.3 Logs and Record-Keeping Systems*. *RCF Operational Procedure 3.1.17A, Searches* further stated that staff will document all searches they conduct. At a minimum staff make a logbook entry to document each area or group search they complete.

Interviews with staff of various levels of supervision indicated they would document the cross-gender strip or visual body cavity searches but they do not search inmates.

(d) *RCF Operational Procedure 1.1.17, Prison Rape Elimination Act of 2003 (PREA)* states that female staff will announce their presence when entering any housing blocks or dormitory where there is a reasonable expectation of privacy.

The training staff received, titled *Cross Gender Supervision* included that opposite gender staff are required to announce their presence when entering a housing unit. It also specifically states that to the extent that cameras are focused on an area in which inmates are likely to be undressed or toileting, such as shower, bathrooms, and individual cells, the cameras should only be monitored by officers or nonmedical administrators of the same gender as the inmates viewed through the camera.

During the audit tour and subsequent visits to various housing areas while the audit team was on-site, the audit team was able to observe opposite gender staff making the announcement when entering a housing unit. Interviews with staff and inmates also indicated this was routinely occurring.

(e) MDOC Policy 3.1.17, *Searches and Contraband Control* states that staff are prohibited from searching or physically examining a transgender or intersex offender for the sole purpose of determining the offender's genital status.

Interviews with transgender inmates did not indicate this had occurred. Interviews with staff indicated a good understanding of the requirement of this provision of the standard.

(f) The PAQ stated that one hundred percent of security staff has been trained in how to conduct cross-gender pat-down searches, and searches of transgender and intersex inmates, in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs. The training PowerPoint and lesson planned was reviewed and met compliance with this standard by instructing staff to be professional, respectful and the requirements around searches.

The Agency provided the auditor with a Learning Action Plan for all staff on the following lessons; Be Aware of Trauma, Consistent Pat Searches and Communicate Clearly. These were distributed by video and online and were signed for by all staff.

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

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

115.16 (a)

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

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

115.16 (b)

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

115.16 (c)

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

Auditor Overall Compliance Determination

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

Documents and Policy Reviewed

Pre-Audit Questionnaire
 Montana Policy Directive, DOC 1.1.17 *Prison Rape Elimination Act of 2003 (PREA)*
 Inmate Orientation, PowerPoint

State of Montana Policy Directive DOC 3.3.15, *Americans with Disabilities Act (ADA) Offender Accommodations*

Onsite Observations

Signage

Post order and log books

Inmate handbook and intake documentation

Interviews

PREA Coordinator

PREA Compliance Manager (PREA Specialist)

Random Staff

Random Inmate

Supervisor Staff

Intake Staff

Grievance Officer

Investigative Staff

Findings

(a) and (b) MDOC Policy 1.1.17, *Prison Rape Elimination Act of 2003* stated that a program or facility will provide offender education in formats accessible to all offenders, including those who are limited English proficient, deaf, visually impaired, or otherwise disabled, as well as to offenders who have limited reading skills. In addition, MDOC Policy Directive 3.3.15, *Americans with Disabilities Act (ADA) Offender Accommodations* states that the Department of corrections will make reasonable accommodations to the known physical or mental limitation of an offender with a disability unless to do so would result in an undue financial or administrative burden, constitute a direct threat, endanger the health or safety of any person, or fundamentally alter the inherent nature of the Departments business.

The Training PowerPoint and lesson plan was provided that outlined the Americans with Disabilities Act (ADA) requirements. This training outlined how the facility provides reasonable accommodations to inmates with physical or mental impairment, including the use of interpreters and TTY phones.

Inmate orientation materials were provided that stated an inmate could ask for a reasonable accommodation by asking their Unit Counselor or other staff in person or in writing or by contacting the ADA Coordinator.

MDOC provided a contract that RCF utilizes for telephonic interpretation services (OPI) and Braille transcription services. The contract stated languages will include, but not be limited to, Spanish, Russian, German, French, Montana Native American Tribes (based on availability), Mandarin, and Arabic.

The facility indicated that there were no instances in the past twelve months whereas an inmate interpreter, reader or other type of inmate assistance was used, via the PAQ.

During interviews, some staff were unclear of this requirement or where unable to articulate how they would handle a situation where they needed a translator.

- (c) MDOC Policy 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)* states that the program or facility will not rely on offender interpreters for investigations regarding sexual misconduct expect in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the offender's safety, the performance of first-response duties or the investigation of the offender's allegations.

For immediate corrective action, the Warden sent an email to all staff which stated:

As part of our PREA Audit Corrective Action Plan it is important we communicate with all staff we have an interpreter service contract available to us. Should we have a resident in need of interpretation services, we can access those services through this contract whenever we need to. For example, if we get a resident in our facility that predominantly speaks a foreign language and we need an interpreter to ensure they're able to communicate with us their needs or to help them report an issue, we have access to this service. I have attached the contract to this email for reference. Page 7 has the 24/7 Contact-client service number 1-800-481-3289. Please feel free to ask any questions regarding this service.

Standard 115.17: Hiring and promotion decisions

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

115.17 (a)

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

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

115.17 (b)

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

115.17 (c)

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

115.17 (d)

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

115.17 (e)

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

115.17 (f)

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

115.17 (g)

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

115.17 (h)

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

Auditor Overall Compliance Determination

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

Documents and Policy Reviewed

Pre-Audit Questionnaire
Montana Policy Directive, DOC 1.1.17 *Prison Rape Elimination Act of 2003 (PREA)*
MDOC Policy 1.3.55, *Criminal Conviction in Employment*
MDOC Policy 1.3.2, *Performance and Conduct*
Acknowledgement and Disclosure Form
Hiring Packet

Onsite Observations

HR Files, located at HQ
Training files

Interviews

PREA Coordinator
PREA Compliance Manager (PREA Specialist)
HR Staff
Warden

Findings

- (a) MDOC Policy 1.3.55, *Criminal Conviction in Employment* states that for positions that may have contact with offenders, the Department will not hire, enlist, the services of or continue employment of an employee or service provider who:
- a. Has engages in sexual abuse in a prison, jail, lock up, community confinement facility, juvenile facility or other institution;
 - b. Has been convicted of engaging in 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;
 - c. Has been civilly or administratively adjudicated to have engaged in activity described in paragraph (b) of this section;
 - d. Has contact with youth and is listed on the DPHHS child abuse registry

Policy also states that employees have a continuing affirmative duty to disclose any of the misconduct listed above.

In the PAQ, RCF stated that in the past 12 months, there were 2 persons hired who may have contact with inmates who have had criminal background records checks.

- (b) MDOC Policy 1.3.55, *Criminal Conviction in Employment* states that the Department considers incidents of sexual harassment in determining whether to hire or promote anyone, or to enlist the services of any contractor, who may have contact with inmates.

- (c) (d) and (e) MDOC Policy 1.3.2, *Performance and Conduct* and MDOC Policy 1.3.55, *Criminal Conviction in Employment* states the Office of Human Resources will ensure a criminal background check is conducted on all employees and service providers upon hire or transfer from another state agency, or promotion and every five years thereafter.

During the onsite portion of the audit, seventeen (17) Human Resource Files were reviewed. Hiring files indicated criminal history checks had been completed on new employees.

(f) MDOC Policy 1.3.2 *Performance and Conduct* and MDOC Policy 1.3.55, *Criminal Conviction in Employment* outlines an affirmative duty to disclose criminal conduct and details the form called 'Acknowledgement and Disclosure Form' which all who have contact with offenders must complete, which meets compliance with this provision.

(h) MDOC Policy 1.3.55, *Criminal Conviction in Employment* states that the agency shall provide information on substantiated allegations of sexual abuse or sexual harassment involving a former employee upon receiving a request from an institution employer for whom such employee has applied to work.

Of all randomly selected staff HR files that were reviewed, all staff had signed the Montana PREA Questionnaire for self disclosure, the last two years and all had their background check conducted prior to hiring and within the past five years.

The Agency added a line to the bottom of the form, above the signature line by staff, that states "By my signature below, I affirm the above information to be true and complete. I understand that material omission regarding misconduct or violation of the above note policies shall be grounds for termination.

Standard 115.18: Upgrades to facilities and technologies

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

115.18 (a)

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

115.18 (b)

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

Auditor Overall Compliance Determination

Exceeds Standard (*Substantially exceeds requirement of standards*)

XXX 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

Documents and Policy Reviewed

Pre-Audit Questionnaire
Memo

Onsite Observations

Construction
Building Diagrams

Interviews

PREA Coordinator
PREA Compliance Manager (PREA Specialist)
Director

Findings

(a) RCF stated that the facility has made substantial expansion or modifications of existing facilities since August 20, 2012 on the PAQ. No documentation was provided on the disk to support this.

(b) RCF stated the facility has installed or updated a video monitoring system, electronic surveillance system, or other monitoring technology since August 20, 2012. No information was provided on the disk.

A memo was provided to the auditor that stated that “Riverside transitioned from a youth facility to an adult facility in 2016. The last date a youth was housed at Riverside was July 17, 2017. The facility expanded from 22 to 32 beds in December of 2017”.

After further discussion and interviews, the facility expansion was relating to a change in mission, in that they switched from a youth facility to an adult treatment facility. During this transition, the Quality Assurance Department was involved, to include the PREA Coordinator, to provide input on the need for shower curtains, signage, staff announcements etc, but actual building modifications were not made.

RESPONSIVE PLANNING

Standard 115.21: Evidence protocol and forensic medical examinations

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

115.21 (a)

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

115.21 (b)

- Is this protocol developmentally appropriate for youth where applicable? (N/A if the agency/facility is not responsible for conducting any form of criminal OR administrative sexual abuse investigations.) XXX 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.) XXX Yes No NA

115.21 (c)

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

115.21 (d)

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

115.21 (e)

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

115.21 (f)

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

115.21 (g)

- Auditor is not required to audit this provision.

115.21 (h)

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

Auditor Overall Compliance Determination

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

Documents and Policy Reviewed

Pre-Audit Questionnaire

Montana Policy Directive, DOC 1.1.17 *Prison Rape Elimination Act of 2003 (PREA)*

Riverside Correctional Facility Operational Procedure, DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*

Interviews

PREA Coordinator

PREA Compliance Manager (PREA Specialist)

Supervisors

Rape Crisis Staff (via phone)

SANE unit (via phone)

Findings

(a) Riverside Correctional Facility has established uniform protocols for investigating allegations of sexual abuse that maximize the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions as outlined in MDOC Policy 3.1.28, *Crime Scene and Physical Evidence Preservation*.

DOC Policy 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)* outlines the first responder duties that include, as required by the standard, separating the victim and the suspect and requesting the victim not perform any functions that may damage evidence such as bathing or showering, using the restroom, changing clothes, combing hair, etc.

Interviews with random staff of various levels of security and a facility investigator indicated a good understanding of the uniform evidence protocol.

(b) RCF advised the Auditor that the protocol was adapted from or otherwise based on the most recent edition of the DOJ's Office on Violence Against Women publication, "*A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents*". The protocol was reviewed.

(c) MDOC Policy 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)* states that medical staff will offer assessments to all inmates involved in a sexual abuse incident without financial cost including a forensic medical examination if reported within 72 hours of the incident. The staff will, should the victim consent, immediately transport the victim to a medical facility equipped with medical personnel certified as Sexual Assault Forensic Examiners (SAFE's) or Sexual Assault Nurse Examiners (SANE's), or if

none are available, to a medical facility with other qualified medical practitioners, to evaluate and treat sexual assault/rape victims.

Staff stated that there have been no forensic medical examinations that were conducted during the past 12 months; Inmates are transported to local area medical facilities for SANE/SAFE exams.

(d) The auditor reviewed a template Memorandum of Understanding with a local rape crisis center to provide sexual abuse victim advocacy, which includes response to the hospital during a forensic medical exam. This was emailed to the Center but as of the date of this report, has not been signed. Numerous attempts were made. However, the MDOC does use their own internal victim liaisons.

(e) MDOC policy 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)* states that offenders who allege to be victims of sexual abuse or sexual harassment must be provided access to a victim advocate or rape crisis center counselor who can offer emotional support services through the investigative process, or access to a qualified facility staff person.

The facility created and provides the inmates with a pamphlet entitled “End the Silence” that provides information on victim advocacy, and how to reach them. The facility has the pamphlet readily available to all inmates by placing them in all housing units and other areas.

(f) and (g) The Montana Department of Corrections is responsible for investigations into allegations of sexual abuse; therefore this provision of the standard is not applicable.

(i) The initial external service provider staff have been screened for appropriateness to serve in this role and have received education concerning sexual assault and forensic examination issues in general.

A memo was provided to the auditor dated October 20, 2017 which was signed by the Staff Attorney for the Department of Corrections. It was addressed to the Liaison for Safe Space and stated “This letter serves as written notice to an ‘external service provider’ that the Department of corrections hereby terminates for cause, effective immediately, the MOU between the Department and the external service provider dated October 11, 2017”. In addition, a memorandum was addressed to this Auditor detailing the reason for this action, dated January 9, 2018. At this time, there was no advocate available for this facility.

MDOC uses their own internal victim liaisons.

The facility also provided the Riverside Correctional Facility Sexual Assault/Abuse Institutional Plan for review. This includes all steps that should be immediately taken, a flow chart of the process and detailed step for each of the roles of staff involved.

Standard 115.22: Policies to ensure referrals of allegations for investigations

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

115.22 (a)

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

115.22 (b)

- Does the agency have a policy and practice in place to ensure that allegations of sexual abuse or sexual harassment are referred for investigation to an agency with the legal authority to conduct criminal investigations, unless the allegation does not involve potentially criminal behavior? XXX 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? XXX Yes No
- Does the agency document all such referrals? XXX Yes No

115.22 (c)

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

115.22 (d)

- Auditor is not required to audit this provision.

115.22 (e)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

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

Documents and Policy Reviewed

Pre-Audit Questionnaire

Montana Policy Directive, DOC 1.1.17 *Prison Rape Elimination Act of 2003 (PREA)*

Riverside Correctional Facility Operational Procedure, *DOC 1.1.17, Prison Rape Elimination Act of 2003 (PREA)*

Interviews

PREA Coordinator

PREA Compliance Manager (PREA Specialist)

Investigators

Supervisor

Findings

(a) MDOC Policy 3.1.19, *Investigations* states that all reported incidents of sexual abuse and sexual harassment will be investigated either by local law enforcement or the Department's Office of Investigations. *DOC Policy 1.1.17, Prison Rape Elimination Act of 2003 (PREA)*, states that allegations of sexual abuse and sexual harassment will be assessed by personnel designated by the administrator and investigative staff to ensure each report is forwarded to the appropriate investigative office. MDOC Office of Investigations conducts all criminal investigations, and administrative investigations are investigated by select facility staff. Interviews with staff, including an investigator indicated this was occurring.

(b) *RCF Operating Procedure 1.1.17 Prison Rape Elimination Act of 2003 (PREA)* states that allegations of sexual abuse or sexual harassment are initially reviewed by the Command Post staff and the PREA Specialist and then forwarded to the Office of Investigations or forward to the appropriate RCF staff to conduct an administrative investigation.

MDOC Policy 3.1.19, *Investigations* stated that outlines the general requirements that all criminal investigations are to be referred for to an investigator with the legal authority to conduct the investigation. The policy is available on the MDOC website at:

https://cor.mt.gov/Portals/104/Resources/Policy/Chapter3/3-1-19%20Investigations%2003_11_15.pdf

RCF stated that during the past 12 months there have been 2 allegations of sexual abuse and sexual harassment that were administratively investigated and 1 that was criminally investigated which totals 3 that were received.

All Investigative files reviewed as part of the onsite visit showed that the allegations were investigated and referrals were documented.

(c-e) Since MDOC conducts its own investigations these provisions of the standards are not applicable

TRAINING AND EDUCATION

Standard 115.31: Employee training

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

115.31 (a)

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

- Does the agency train all employees who may have contact with inmates on how to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities?
XXX Yes No

115.31 (b)

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

115.31 (c)

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

115.31 (d)

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

Auditor Overall Compliance Determination

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

Documents and Policy Reviewed

Pre-Audit Questionnaire

Montana Policy Directive, DOC 1.1.17 *Prison Rape Elimination Act of 2003 (PREA)*

RCF Operational Procedure, DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*

Prison Rape Elimination Act, PowerPoint and Lesson Plan
Contractor, Volunteer and Employee PREA Acknowledgment Form
Pre-Service Orientation, Staff Handout

Interviews

PREA Coordinator
PREA Compliance Manager (PREA Specialist)
Random Staff
Supervisor Staff
Specialized Staff
Training Manager
Contract Staff

Findings

(a-b) DOC Policy 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)* states that prior to working with offenders, all Department employees with direct and/or incidental contact with offenders must receive documented PREA training and sign the Staff PREA Acknowledgement form. Training and documentation will be repeated annually thereafter. Training includes, but is not limited to:

1. Review of this policy, the *Prison Rape Elimination Act (PREA)*, *DOC Policy 1.3.12 Staff Association and Conduct with Offenders*, appropriate site-specific procedures, and any other applicable state or federal laws;
2. investigation, and prosecution of sexual misconduct;
3. the Department's zero tolerance stance;
4. recognition of sexual misconduct, predatory offenders, potential victims, and/or staff involvement;
5. how to fulfill their responsibilities under Department sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures;
6. facility or program procedures on sharing confidential information;
7. an offender's right to be free from sexual misconduct;
8. offender and employee rights to be free from retaliation for reporting sexual abuse and harassment;
9. the dynamics of sexual abuse in confinement;
10. common reactions of sexual abuse victims;
11. how to detect and respond to signs of threatened and actual sexual abuse;
12. how to avoid inappropriate relationships with offenders;
13. how to communicate effectively and professionally with offenders who might be lesbian, gay, bisexual, transgender, intersex (LGBTI) or gender nonconforming; and
14. gender-specific training.

New employees receive a two hour in person, classroom training titled "Prison Rape Elimination Act (PREA)". The training included all topics required in the above provision of the standard. New employees also receive boundaries training that include how to avoid inappropriate relationships with inmates.

The PAQ indicated that 32 staff employed by the facility who may have contact with inmates, were trained or retrained on the PREA Requirements above.

(c) MDOC staff stated they provide refresher training every two years to ensure all employees know the agency's current sexual abuse and sexual harassment policies and procedures and in years in which an employee does not receive refresher training, the agency shall provide refresher information on current sexual abuse and sexual harassment policies.

While on-site, the auditor randomly selected eighteen (18) staff names and asked for full copies of their training files. All staff reviewed had received comprehensive PREA training within the most recent two years. Also of note, is that all staff reviewed all received many classes on harassment and trauma informed care, which is not required by PREA but due to the nature of this program and its offerings, is an excellent addition and supplement to the general PREA requirements.

Standard 115.32: Volunteer and contractor training

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

115.32 (a)

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

115.32 (b)

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

115.32 (c)

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

Auditor Overall Compliance Determination

Exceeds Standard (*Substantially exceeds requirement of standards*)

XXX **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

Documents and Policy Reviewed

Pre-Audit Questionnaire

Montana Policy Directive, DOC 1.1.17 *Prison Rape Elimination Act of 2003 (PREA)*

RCF Operational Procedure, DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*

DOC Policy 1.3.16, *Volunteer Services*

Volunteer/Contractor Handout

Contractor/Volunteer Acknowledgment Form

Onsite Observations

Front desk, check in office

Interviews

PREA Coordinator

PREA Compliance Manager (PREA Specialist)

Contractor

Volunteer

Training Manager

Findings

- (a) DOC Policy 1.1.17, *Prison Rape Elimination Act (PREA)* states that the definition of department employee includes volunteers; therefore, volunteers must adhere to the same training requirements as staff

In addition, the policy further stated that all service providers who have contact with offenders will be trained on the Department's zero tolerance policy concerning sexual abuse and harassment, prevention, detection and response methods, and how to report such incidents.

Interviews were conducted with two volunteers and contractors during the on-site portion of this audit. During interviews, they acknowledged that they had received PREA training and knew of her responsibility to report all allegations of sexual abuse and sexual harassment.

The PAQ indicated that the facility has 21 volunteers and individual contractors who have contact with inmates who have been trained in agency policies and procedures regarding sexual abuse/sexual harassment prevention, detection and response.

(b) DOC Policy 1.1.17, *Prison Rape Elimination Act (PREA)* states that the level and type of training provided to service providers will be based on the services they provide and the level of contact they have with offenders. Service providers sign the *Service Provider PREA Acknowledgement Form*.

DOC Policy 1.3.16, *Volunteer Services*, states that volunteers with direct and/or incidental contact with offenders must receive documented PREA training during volunteer orientation in accordance with *DOC Policy 1.1.17, Prison Rape Elimination Act (PREA)*. Page 12 of the Volunteer Handbook describes the Prison Rape Elimination Act and their responsibilities.

(c) Random samples and signature acknowledgment documentation of training was provided during the audit when requested. However, the documentation was not completed and logged thoroughly so it was difficult for the auditor to clearly see that volunteers and contractors were educated, screened and signed for said acknowledgment

CORRECTIVE ACTION: The facility sent the auditor a newly created log on April 16, 2018. The log details the volunteers name and organization, the date of the background check and the date they received PREA information and training. Many names were still in need of PREA training/education. The auditor will continue to monitor and request copies once those volunteers are educated and sign for said education.

On April 13, 2018, a memo was sent to all staff on how to use the new approved volunteer list. It detailed where it would be located at the front desk and where it would be located on the facility share drive. As of August 16, 2018, the auditor reviewed the most recent log and training dates and forms and all volunteers are current. There are nineteen (19) currently approved for access. The shift supervisors and administrative assistant have a current list emailed to them as does the front reception area. Copies of all were sent to the auditor.

The facility is in compliance with this standard based on the corrective actions taken.

Standard 115.33: Inmate education

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

115.33 (a)

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

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

115.33 (b)

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

115.33 (c)

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

115.33 (d)

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

115.33 (e)

- Does the agency maintain documentation of inmate participation in these education sessions?

XXX Yes No

115.33 (f)

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

XXX Yes No

Auditor Overall Compliance Determination

Exceeds Standard (*Substantially exceeds requirement of standards*)

XXX **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

Documents and Policy Reviewed

Pre-Audit Questionnaire

DOC 1.1.17 *Prison Rape Elimination Act of 2003 (PREA)*

Audio Combined Inmate Orientation Presentation

Spanish Poster

Intake Folder, inmate Education

Onsite Observations

Provided full copy of inmate intake packet/folder

Interviews

Classification Staff, Training

Findings

(a) DOC 1.1.17 *Prison Rape Elimination Act of 2003 (PREA)* page 8 states “Within 72 hours of facility or program for residents at the juvenile facilities, staff will communicate to offenders, verbally and in writing:

- Information about the Department’s zero tolerance of sexual abuse and sexual harassment;
- How to report incidents or suspicion of abuse or harassment;”

In the Pre-Audit Questionnaire, RCF states that 86 inmates were admitted into the facility in the past twelve months and that all 86 inmates received the information.

(b) DOC 1.1.17 *Prison Rape Elimination Act of 2003 (PREA) page 8* states “Within 30 days of intake for adult offenders, or within 10 days of intake for residence at the juvenile facilities, the program or facility will provide education to the offenders either in person or through video regarding their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents, and regarding program or facility procedures for reporting and responding to such incidents.”

(c) RCF provided no documentation in advance to demonstrate compliance with this subsection of the standard. The auditor randomly selected inmate files to review. In the inmate files, the signature form acknowledging the inmates received the documents and education was reviewed.

(d) DOC 1.1.17 *Prison Rape Elimination Act of 2003 (PREA) page 8* states “The program or facility will provide offender education in formats accessible to all offenders, including those who are limited English proficient, deaf, visually impaired, or otherwise disabled, as well as to offenders who have limited reading skills.”

During the documentation review, it was seen that the comprehensive education was always immediately conducted upon intake as well as the initial. While this does meet the requirements of the standards, as it is within 30 days of intake, it was the recommendation of this audit team to conduct this a little closer to the 30 days. This will allow the inmate to get acclimated to the facility, learn and feel comfortable with the staff and provide additional time for them to know the facility to learn.

The intake inmate folder that was provided to the auditor had some outdated policies inside. The auditor had the PCM and Training manager immediately go through and replace, which they did and provided the updated copies to the auditor. The auditor recommended that as soon as policy updates come forth, that all folders are updated so this will not occur in the future.

The PCM also sent out an email and memo to all staff on April 17, 2018 explaining that all old policy material was removed from the resident education and intake folder. They have been replaced with the updated procedures and policies. The evening shift staff will be required to continue to update as new policies and procedures are disseminated and verify that these packets are always current.

Standard 115.34: Specialized training: Investigations

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

115.34 (a)

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

115.34 (b)

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

115.34 (c)

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

115.34 (d)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

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

Documents and Policy Reviewed

Pre-Audit Questionnaire
Montana Policy Directive, DOC 1.1.17 *Prison Rape Elimination Act of 2003 (PREA)*
Montana Policy Directive, DOC 3.1.19, *Investigations*
Memo from PREA Coordinator
Investigations Staff Training Roster

Interviews

PREA Coordinator
PREA Compliance Manager (PREA Specialist)
Investigator
Training Staff

Findings

(a) MDOC Policy 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)* stated that administrative investigations will be conducted in accordance with DOC 1.3.13 *Administrative Investigations*; individuals assigned to conduct administrative investigations will work in cooperation with the Office Human Resources and be trained in all specialized investigative training topics relevant to confined settings.

A criminal investigator and an administrative investigator were interviewed as part of the audit process and each stated they received the training. All will be retrained on the new process, which was reviewed by the Auditor. The new process requires all cases to be routed and reviewed through Central Office.

(b) The training provided to staff is training that is available through the National Institute of Corrections and includes all the training topic including techniques for interviewing sexual abuse victims, proper use of Miranda and Garrity warnings, sexual abuse evidence collection in confinement

settings, and the criteria and evidence required to substantiate a case for administrative action or prosecution referral.

(c) Training rosters were provided as documentation to show eleven investigators received training. The PAQ, however, states that there is 8 agency level and 1 facility level trained investigators.

(d) MDOC conducts its own criminal and administrative investigations; therefore, this provision of the standard is not applicable.

Standard 115.35: Specialized training: Medical and mental health care

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

115.35 (a)

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

115.35 (b)

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

115.35 (c)

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

115.35 (d)

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

Auditor Overall Compliance Determination

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

Documents and Policy Reviewed

Pre-Audit Questionnaire
Montana Policy Directive, DOC 1.1.17 *Prison Rape Elimination Act of 2003 (PREA)*
Medical and Mental Health Staff Training Roster

Interviews

PREA Coordinator
PREA Compliance Manager (PREA Specialist)
Medical Staff
Mental Health Staff
Training Manager

Findings

- (a) MDOC Policy 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)* states that medical and mental health providers will receive additional, specialized training relevant to their role in detecting and assessing signs of sexual abuse and sexual harassment; preservation of evidence, and responding effectively to victims of sexual abuse and sexual harassment. The training utilized is that offered online through the National Institute of Corrections (NIC).

(b) RCF states that medical staff employed by the agency does not conduct forensic examinations, therefore this provision of the standard is not applicable. Interviews with medical staff reinforced they had not completed the exams.

(c) Training rosters were provided as documentation that medical and mental health providers have received the specialized training. The PAQ states that 4 medical and mental health staff have been trained. The roster provided includes 4 staff members.

(d) RCF staff state that contractors and volunteers that are medical and mental health care practitioners also receive the training mandated for employees under 115.31 and 115.32, depending upon the practitioner's status at the agency.

Certificates for specialized training through NIC were provided to the auditor. The class, PREA: Medical Health Care for Sexual Assault Victims in a Confinement Setting provides certificates for all four staff, indicated above and in the PAQ. All certificates were dated in the two months prior to the on-site portion of the audit. It is the recommendation of the auditor that upon hire, new medical and mental health staff is referred to the PCM so that he may ensure that promptly receive this training.

SCREENING FOR RISK OF SEXUAL VICTIMIZATION AND ABUSIVENESS

Standard 115.41: Screening for risk of victimization and abusiveness

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

115.41 (a)

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

115.41 (b)

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

115.41 (c)

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

115.41 (d)

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (1) Whether the inmate has a mental, physical, or developmental disability?
XXX Yes No

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (2) The age of the inmate? XXX Yes No

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (3) The physical build of the inmate? XXX Yes No

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (4) Whether the inmate has previously been incarcerated? XXX Yes No

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (5) Whether the inmate’s criminal history is exclusively nonviolent?

XXX Yes No

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (6) Whether the inmate has prior convictions for sex offenses against an adult or child? XXX Yes No

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (7) Whether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming (the facility affirmatively asks the inmate about his/her sexual orientation and gender identity AND makes a subjective determination based on the screener’s perception whether the inmate is gender non-conforming or otherwise may be perceived to be LGBTI)?
XXX Yes No

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (8) Whether the inmate has previously experienced sexual victimization?

XXX Yes No

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (9) The inmate’s own perception of vulnerability? XXX Yes No

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (10) Whether the inmate is detained solely for civil immigration purposes?

XXX Yes No

115.41 (e)

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

115.41 (f)

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

115.41 (g)

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

115.41 (h)

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

115.41 (i)

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

Auditor Overall Compliance Determination

Exceeds Standard (*Substantially exceeds requirement of standards*)

XXX **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

Documents and Policy Reviewed

Pre-Audit Questionnaire

DOC 1.1.17 *Prison Rape Elimination Act of 2003 (PREA)*

PREA: Risk Assessment

Onsite Observations

File review of 22 inmate files

Interviews

PCM

MH Staff

Training Staff

Shift Supervisor

Findings

(a) DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)* page 3 states “Risk assessments of all offenders through the use of an objective screening instrument for victimization or abusiveness will take place within 72 hours of intake into a facility or program. Reassessment will occur with within 30 days of intake into a facility or program and when warranted thereafter based on any new information. Offenders will not be disciplined for refusing to answer or for not disclosing complete information in response to, questions asked during screening or reassessment”

(b) RCF utilizes a PREA: Risk Assessment Tool that is objective.

(c) RCF provided a copy of the PREA: Risk Assessment Tool, used by the facility. A review of the screening tool, indicates that all factors in determining the offender’s for victimization or abusiveness are included in the screening tool. These factors include:

- Developmental disability/mental disability/physical disability
- The age of the offender
- Physical stature of the offender
- First time incarcerated
- The offender's criminal history is exclusively nonviolent
- Offender has current or prior convictions for sex offenses against a child or an adult
- Gay/lesbian/bisexual/transgender/intersex/gender nonconforming (admitted or perceived)
- Victim of sexual assault in an instructional setting
- Experienced prior sexual victimization in community
- Does the inmate consider themselves vulnerable

The facility has determined that the offender will be designated as a potential victim if a positive answer is received on three or more of the questions.

(d) RCF provided a copy of the PREA: Risk Assessment Tool, used by the facility. A review of the screening tool, indicates that all factors in determining the offender's for victimization or abusiveness are included in the screening tool. It considers prior acts of sexual abuse, prior convictions for violent offenses and history of prior institutional violence or sexual abuse, as it is known to the agency, in assessing the inmates risk of being sexual abusive.

The predator factors include

- Previously perpetrated sexual abuse in an institutional setting
- Prior acts of sexual abuse in the community
- Current or prior convictions for violent offenses
- History of prior instructional violence

The offender will be designated as a potential predator if a positive answer is received on two or more of the above questions.

(e) DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA) page 3 states "Risk assessments of all offenders through the use of an objective screening instrument for victimization or abusiveness will take place within 72 hours of intake into a facility or program. Reassessment will occur with within 30 days of intake into a facility or program and when warranted thereafter based on any new information. Offenders will not be disciplined for refusing to answer or for not disclosing complete information in response to, questions asked during screening or reassessment"*

(f) Policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)* states that within 30 days of intake, the facility will reassess the offenders risk of victimization or abusiveness, taking into consideration any relevant information received by the facility since the initial screening.

(g) DOC 1.1.17 *Prison Rape Elimination Act of 2003 (PREA) page 3 states* “Risk assessments of all offenders through the use of an objective screening instrument for victimization or abusiveness will take place within 72 hours of intake into a facility or program. Reassessment will occur with within 30 days of intake into a facility or program and when warranted thereafter based on any new information. Offenders will not be disciplined for refusing to answer or for not disclosing complete information in response to, questions asked during screening or reassessment”. In addition, Policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)* states that the facility will conduct additional screening assessments when warranted based on any new information, referral, request or incident of sexual abuse

Twenty two (22) inmate files were reviewed. Each has a Riverside Re-Entry Program Intake Checklist in their file which has the staff and inmate sign, date and acknowledges that they reviewed and received numerous policies, procedures and education. One of these sections is ‘PREA Policy 1.1.17 Review and sign off’. Off all reviewed, these were signed for on the initial date of intake. In addition, usually 24 hours later, the inmates sign for the Adult PREA Acknowledgment Form for their comprehensive education.

CORRECTIVE ACTION: Prior to the audit, the PCM found that the 30 day follow up screenings were not being conducted timely and self disclosed this to the auditor. He emailed and met with the Shift Supervisor in regards to this as well as the training manager (as she conducts most intake screenings). The developed a new process to ensure that these do not exceed thirty days in the future, will have the intake screener add a calendar reminder for the thirty day screening with the shift supervisors, who typically conduct the follow up (30 day) screening. The auditor will continue to monitor to ensure continued compliance.

For the corrective action, the facility sent the intake roster and all screenings for intakes that occurred for the initial 72 hour requirement and the 30 day follow up screening. The dates the facilities sent to the auditor were:

April 16, 2018
May 10, 2018
May 14, 2018
May 31, 2018
June 4, 2018
June 26, 2018
August 15, 2018

All that were recently received into the facility met the requirements of the standard and were seen timely and documented thoroughly.

Standard 115.42: Use of screening information

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

115.42 (a)

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

115.42 (b)

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

115.42 (c)

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

115.42 (d)

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

115.42 (e)

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

115.42 (f)

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

115.42 (g)

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

Auditor Overall Compliance Determination

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

Documents and Policy Reviewed

Pre-Audit Questionnaire

Montana Policy Directive, DOC 1.1.17 *Prison Rape Elimination Act of 2003 (PREA)*

RCF Operational Procedure, *DOC 1.1.17, Prison Rape Elimination Act of 2003 (PREA)*

Interviews

PREA Coordinator

PREA Compliance Manager (PREA Specialist)

Intake Staff

Supervisors

Findings

- A. Information obtained from the assessments will be used to inform housing, work, bed and education/programming assignments with the goal of keeping separate those offenders at high risk of being sexually victimized from those at high risk of being aggressive, as per DOC Procedure 1.1.17, Section IV, B, 7.
- B. Montana DOC Policy 4.2.1 states that to make detailed assessments, staff will solicit information from courts, social service agencies, pre-sentence investigative reports, and other sources to ensure the broadest possible range of information is available on which to make classification decisions (Section B.2).
- C. Interviews with the PREA Coordinator, PREA Compliance Manager and various staff indicated that transgender and intersex inmate placement will be determined on a case by case basis. As correction action, this language should be clear in policy and trained to staff.
- D. Montana DOC Policy 1.1.17, Prison Rape Elimination Act states that placement and programming assignments for each transgender or intersex inmate will be reassessed at least twice per year to review any threats to safety experienced by the offender.
- E. The auditor did not find this section in policy nor was any documentation provided to the auditor to support compliance. Staff was unaware during interviews.

Corrective Action: The housing lieutenant/supervisor is the person who completes all housing assignments and moves at this facility. While interviewing him as to the utilization of the PREA risk assessment information when determining housing, he was unaware of this requirement and stated

that he did not do this. The screenings upon intake are completed by the Training Manager and maintained on her own log. These results need to be shared by staff who may need to know to determine housing, programming and other decisions for the inmate population.

In addition, Policy DOC 1.1.17, *Prison Rape Elimination Act of 2003*, now states on page 3 and four that “in deciding whether to assign a transgender or intersex offender to a facility, and in making other housing and programming assignments, the Department will consider, on a case by case basis the placements effects on the offenders safety, whether the placement would present management or security problems and whether such placement would likely endanger the safety of other offenders. A review committee consisting of a qualified health care professional, qualified mental health care professional, PREA Coordinator, chief legal counsel or designee, and the Montana State Prison and Montana Woman’s Prison wardens or designees will determine the appropriate facility placement of transgender or intersex offenders based on their review of all relevant information”. The policy lists all things that will be review and further states that placement and programming assignments for transgender and intersex offenders will be reassessed at least twice each year to review any threats to safety experienced by the offender. Lastly, the policy addition states that a transgender or intersex inmates own views with respect to his or her own safety will be given consideration.

Policy DOC 1.1.17 also states now that transgender or intersex inmates will be given the opportunity to shower separately from other offenders either through physical separation by separate shower stalls or by time phasing or scheduling of showers.

The facility created an assessment tracker for all screening assessments that which is assessable on the facility share drive that tracks all new intakes and screenings and the inmate scores as to whether the score as a potential victim or a potential perpetrator. Staff were trained on how to access this document and re-educated on the need, reasoning and importance of its use.

Standard 115.43: Protective Custody

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

115.43 (a)

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

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

115.43 (b)

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

115.43 (c)

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

115.43 (d)

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

115.43 (e)

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

Auditor Overall Compliance Determination

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

Documents and Policy Reviewed

Pre-Audit Questionnaire

Montana Policy Directive, DOC 1.1.17 *Prison Rape Elimination Act of 2003 (PREA)*

Riverside Correctional Facility Operational Procedure, DOC 3.5.1, *Locked Housing Unit Operations*

Montana Policy Directive, DOC 4.2.2, *Special Needs Offenders*

Montana Policy Directive, DOC 3.5.1, *Locked Housing Unit Operations*

Interviews

PREA Coordinator

PREA Compliance Manager (PREA Specialist)

Shift Supervisor

Findings

- (a) DOC Policy 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)* states that victims of sexual abuse and sexual harassment will only be placed in administrative segregation for protective purposes if all alternative options have been considered. RCF reported that no inmates have been placed in administrative segregation for this purpose in the past 12 months.
- (b) RCF stated that if they did have an inmate placed in segregated housing for this purpose, they shall have access to programs, privileges, education, and work opportunities to the extent possible or document why the opportunities have been limited, the duration of the limitation and the reasons for such limitations. There were no examples of this occurring; however staff interviews indicated an understanding of this process. The PAQ indicated that this has not occurred at all in the twelve months preceding the audit.

Montana DOC Policy DOC 4.2.2., *Special Needs Offenders* outlines the housing of vulnerable and predatory offenders. It states that the facility/program administrator will establish procedures to ensure offenders identified with a high risk of sexually assaultive behavior and those who are

at risk for sexual victimization are assessed by a mental health or other qualified professional and are monitored.

(c-e) RCF Operational Procedure, 4.2.1 *Offender Classification System* states that the Unit Management Team (Unit Manager, Case Manager (s), Sergeants and Correctional Officers) shall conduct classification reviews of all inmates in segregation at least every 30 days, using a Locked Housing Status Review Plan.

The assessments document the basis for the facilities concern for the inmate's safety and the reason why no alternative means of separation could be made. The facility does not have a segregation area/unit.

REPORTING

Standard 115.51: Inmate reporting

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

115.51 (a)

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

115.51 (b)

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

115.51 (c)

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

115.51 (d)

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

Auditor Overall Compliance Determination

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

Documents and Policy Reviewed

Pre-Audit Questionnaire
Montana Policy Directive, DOC 1.1.17 *Prison Rape Elimination Act of 2003 (PREA)*

Interviews

PREA Coordinator
PREA Compliance Manager (PREA Specialist)

Findings

(a) MDOC provides multiple internal ways for inmates to privately report sexual abuse and sexual harassment, retaliation by other inmates or staff for reporting sexual abuse and sexual harassment, and staff neglect or violation of responsibilities that may have contributed to such incidents. DOC Policy 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)* outlines the process for reporting including directly to a staff, utilizing the grievance system, through confidential telephone hotlines or by utilizing the telephone system to contact the facility PREA Specialist.

Inmates are educated on all the reporting options through inmate orientation and posters in housing units and other areas. Inmates and staff who were interviewed were able to articulate that they understood the reporting methods available.

The Montana Department of Corrections has established a PREA reporting email address, CORPREAReporting@mt.gov. The email address is monitored by the PREA Coordinator and the Department Quality Assurance Director. The email was established as a reporting mechanism for any individual, staff, community member, or offender. It allows for staff to privately report outside of their facility chain of command.

(b) RCF has entered into a formalized agreement with the YWCA to provide a method for inmates to provide reports of sexual abuse and sexual harassment. Inmates may call YWCA, who will forward reports of sexual abuse and sexual harassment to agency officials, allowing the inmate to remain anonymous upon request. The auditor reviewed a Memorandum of Understanding with the YWCA that outlines the process of notifying MDOC's on-call investigator immediately of any case reported on the hotline.

RCF does not house inmates solely for civil immigration purposes, therefore that provision of this standard is not applicable.

(c) All staff interviewed was aware they should accept reports made verbally, in writing, anonymously, and from third parties and shall promptly document verbal reports. Staff is also trained on this requirement.

(d) RCF Operating Procedure, *1.1.17, Prison Rape Elimination Act of 2003 (PREA)* states that staff can privately report sexual abuse and sexual harassment to the PREA Specialist and Office of Human Relations. Staff interviewed were unclear on this process or why they would ever need to do this.

During the audit, some staff were unclear of the reasoning as to the need and ability for staff to privately report. For this reason, the staffs were all retrained, via a pod cast, on how and why to privately report. Documentation of one hundred percent of the staff receiving this training was sent to the auditor and reviewed on June 28, 2018.

Standard 115.52: Exhaustion of administrative remedies

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

115.52 (a)

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

grievance to report sexual abuse. This means that as a matter of explicit policy, the agency does not have an administrative remedies process to address sexual abuse. XXX Yes No NA

115.52 (b)

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

115.52 (c)

- Does the agency ensure that: An inmate who alleges sexual abuse may submit a grievance without submitting it to a staff member who is the subject of the complaint? (N/A if agency is exempt from this standard.) XXX 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.) XXX Yes No NA

115.52 (d)

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

115.52 (e)

- Are third parties, including fellow inmates, staff members, family members, attorneys, and outside advocates, permitted to assist inmates in filing requests for administrative remedies relating to allegations of sexual abuse? (N/A if agency is exempt from this standard.) XXX Yes No NA

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

115.52 (f)

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

115.52 (g)

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

Auditor Overall Compliance Determination

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

Documents and Policy Reviewed

Pre-Audit Questionnaire

Montana Policy Directive, DOC 1.1.17 *Prison Rape Elimination Act of 2003 (PREA)*

RCF Operational Procedure, *DOC 1.1.17, Prison Rape Elimination Act of 2003 (PREA)*

Montana Policy Directive, DOC 3.3.3, *Offender Grievance Program*

Interviews

PREA Coordinator

PREA Compliance Manager (PREA Specialist)

Grievance Officer

Findings

(a) MDOC Policy 3.3.3, *Offender Grievance Program* is the administrative procedure that outlines the process of inmate grievances of sexual abuse.

(b) The policy stated that there will be no time limit placed on the filing of a grievance alleging sexual abuse and those applicable time limits may be applied to any portion of a grievance that does not allege an incident of sexual abuse.

The policy stated that offenders alleging sexual abuse must not be required to use an informal grievance system nor must they be required to resolve such a grievance with staff.

There was nothing in the policy that would restrict the agency's ability to defend against an inmate lawsuit on the ground that the applicable statute of limitations has expired.

(c) The policy stated that offenders are not required to submit the grievance to the staff member who is the subject of the complaint and the grievance will not be referred to the staff member who is the subject of the complaint.

(d) The policy stated that a final decision on the merits of any portion of a grievance alleging sexual abuse must be issued within 90 days of the initial filing of the grievance. This does not include time consumed by the offender in preparing any appeals.

If the 90-day time period for response is insufficient to make an appropriate decision an extension of up to 70 days may be allowed to respond. The offender must be notified in writing of any such extension and provided a date by which a decision will be made.

The facility stated that there were no grievances that were filed in the past 12 months alleging sexual abuse.

At any level of the process, including the final level, if the offender does not receive a response within the time allotted for reply, including any properly noticed extension, the offender may consider the absence of a response to be a denial at that level.

(e) The policy stated that third parties are permitted to assist offenders in filing requests for administrative remedies relating to allegations of sexual abuse, and are permitted to file such requests on behalf of an offender, with the following exceptions:

- a. adult offenders must give permission for the third party to file requests and must personally pursue any subsequent steps in the grievance process;
- b. if the alleged victim is a juvenile a parent or legal guardian is allowed to file a grievance, including appeals, on behalf of the juvenile without the agreement of the juvenile;
- c. if the alleged victim is a juvenile and the third party is not a parent or legal guardian, the facility may require the juvenile to agree to have the request filed on his or her behalf and may require the juvenile to personally pursue any subsequent steps in the grievance process;
- d. if the offender declines to have the request processed on his or her behalf the facility will document the offender's decision.

(g) The policy stated that the procedures for the filing of an emergency grievance alleging that an offender is subject to a substantial risk of imminent sexual abuse must include:

- a. the grievance, or any portion thereof that alleges the substantial risk of imminent sexual abuse, will immediately be forwarded to a level of review at which immediate corrective action may be taken;
- b. an initial response will be provided within 48 hours;
- c. a final decision will be made within five calendar days; and

d. the initial response and final decision will document the determination whether the offender is in substantial risk of imminent sexual abuse and the action taken in response to the emergency grievance.

(h) An interview with the facility grievance coordinator indicated a good understanding of this standard.

CORRECTIVE ACTION: The auditor asked for a copy of the grievance log, to review all grievances for the past year and see if there were any emergency or PREA related grievances. There is no such log. The grievance officer maintains a narrative word document of all grievances. It was difficult to see the filing dates, response dates, grievance subject, etc. The grievance officer will develop a process and a new log and send copies to the auditor.

The MDOC PREA Coordinator sent the auditor the grievance policy, which was updated and effective on June 28, 2018 for the facility which is Procedure 3.3.3, *Resident Grievance Program*.

In addition, the attachment of Grievance Procedures which states:

INFORMAL RESOLUTION - STEP 1:

1. Fill out a Resident/Staff request form or ask the staff to privately discuss the problem.
2. Staff will privately meet with the resident and discuss the problem as soon as possible, no later than five (5) working days after the resident submits a Resident/Staff Request to the staff.
3. The staff and resident will attempt to resolve the problem through this informal meeting. **This step must happen first, before any formal grievance can be filed.**
4. If the matter is resolved informally, or the resident does not wish to pursue the matter further, no further action is necessary.
5. If the matter is not resolved informally and the resident wishes to pursue the matter further, the resident will fill out a Formal Resident Grievance form recording the attempt to resolve the issue informally. The staff member involved will complete his/her summary section, give the resident a copy of the completed form for their own record keeping purposes and forward the original grievance to the Compliance Program Specialist (or designee). If the resident's portion of the form is not completely or properly filled out, it will be returned for correction. It must be corrected and resubmitted within two (2) regular working days to be accepted.

STEPS TO THE GRIEVANCE PROCESS:

Step #1 - Informal Resolution

Step #2 - Filing a Grievance:

1. The resident will submit a written statement of her grievance by filling out a Formal Resident Grievance/Appeal Form (RCF Policy 3.3.3 Attachment B) and sending it to the Compliance Program Specialist (or designee). These forms are available from any staff member at all times.
2. The grievance statement should be simple and straightforward. A legal or technical argument is not necessary. The statement must be written in the area given on the form.
3. Grievances must be submitted within five (5) working days of the incident being grieved (not including the informal grievance resolution time). Failure to submit a grievance in this time frame will be grounds for dismissing the grievance. A grievance concerning a policy or practice may be filed anytime, so long as the grievant is personally affected by that policy or practice.

Step #3:

The Compliance Program Specialist (or designee) will be sent the grievance and it will be logged and checked for validity. Invalid, incomplete grievances will be returned to the grievant with written explanation of the reason invalid or incomplete.

Step #4:

The Compliance Program Specialist (or designee) will investigate valid grievances within three (3) working days of receipt of the grievance. If an extension for response is necessary, the Compliance Program Specialist (or designee) will notify the resident in writing, stating why the extension is necessary and noting a projected date of response (not to exceed ten (10) working days).

Step #5:

The Compliance Program Specialist (or designee) will present the response to the grievant, who will sign it, indicate her appeal choice, if any, and be given a copy. If the resident indicates she intends to appeal the response, she will receive an Grievance/Appeal form from the Compliance Program Specialist (or designee) to fill out. This appeal is sent to the Superintendent within three (3) working days.

Step #6:

The Superintendent should respond to the appeal within five (5) working days of receipt. The Compliance Program Specialist (or designee) will attempt to secure the resident signature on the response acknowledging receipt.

Step #7:

The resident may appeal the Superintendent's response to the Youth Services Division Administrator within three (3) days of receipt of the Superintendent's response. The Youth Services Division Administrator or designee will respond to the resident within fifteen (15) working days after receiving the resident's appeal.

Emergency Grievances:

Emergency grievances (see definition, page 1) and grievances alleging staff use of excessive force, PREA or ADA matters, must be forwarded to the Superintendent (or designee), or in the event of a weekend, holiday, or time that the Superintendent (or designee) is not available, the completed grievance should be forwarded to the Supervisor on grounds, or the first one to arrive on grounds as scheduling dictates. Emergency Grievances must be responded to within 48 hours of receipt by the responding party, and a copy of the response forwarded to the Department of Corrections designee immediately. They will review the complaint. The Superintendent's (or designee's) response will be presented to the grievant who will sign it and be given a copy.

To file an Emergency Grievance, a resident must follow these steps:

1. Fill out a grievance form completely, giving all the specifics about the incident, and writing "EMERGENCY" at the very top of the completed form.
2. Hand deliver the completed grievance to a staff member. The staff member will sign the grievance as received, and note, in writing on the form, the date and time. The resident will then be given a copy. The staff member will hand deliver the original grievance to the Superintendent (or designee); if not available, the supervisor on grounds; if one is not available, the first supervisor to report to work.

Upon request of the resident, an assigned caseworker or other staff person shall assist her in drafting her grievance.

In addition, the grievance officer sent me a new grievance tracking log that was created. The log includes the inmate name, number, the unit, the date it was received by grievance officer, result, response date, whether or not it was an emergency, formal and informal check boxes. The grievance log was sent to the auditor to review, during the corrective action period, numerous times and once again on August 18 to illustrate a clear tracking system.

Standard 115.53: Inmate access to outside confidential support services

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

115.53 (a)

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

115.53 (b)

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

115.53 (c)

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

Auditor Overall Compliance Determination

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

Documents and Policy Reviewed

Pre-Audit Questionnaire
 Montana Policy Directive, DOC 1.1.17 *Prison Rape Elimination Act of 2003 (PREA)*
 RCF Operational Procedure, DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*

Interviews

PREA Coordinator
 PREA Compliance Manager (PREA Specialist)

Findings

- A. RCF Procedure 1.1.17 outlines the reporting process to include phone numbers for offenders to call. These phone numbers are likewise posted in all housing units, in the dayrooms and in various other places throughout the complex.

A contract was provided that exists between MDOC and an Emotional Support Services Provider. The Contractor provides case management, advocacy, counseling, crisis support and can make a report for the inmate.

- A. Inside the inmate handbook there is PREA information that details the reporting process as well as access to internal and external resources. This was reviewed in advance of the audit and seen on display during the tour. This number is displayed on posters, pamphlets, the inmate's handbook, policy, staff informational handouts, and in policy. Test calls were made to this number inside the pods. The individual who answered confirmed that these calls were not recorded.

The flier was recently edited and additions were made to it that explained to the inmate population the level of confidentiality for these support services. The MOU was re-signed and forwarded to the Auditor which outlined these changes.

An MOU was signed between the MDOC and YWCA Missoula which states, in part:

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, and provide inmate access to outside confidential support services 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 and to provide outside

confidential support services. 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.

Part 1:

For the purpose of providing a method of reporting allegations that are outside of MDOC (28 C.F.R Section 115.51) 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.
 - The YWCA mailing address for offenders with restricted phone privileges.
- 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.
- Receive reports via letter from offenders who are not allowed phone access due to a disciplinary status and forward any letters received to the MDOC PREA Coordinator.
- Use the information provided by MDOC to refer offenders who call the hotline from out of the designated service area to appropriate authorities.

Part 2:

For the purpose of providing outside confidential support services (28 C.F.R. Section 115.53), each party agrees to perform the following duties:

MDOC will:

- Provide inmates with access to outside confidential support services to be provided by the YWCA under the terms of this MOU. MDOC will provide to each inmate at the time of intake to the facility, a brochure that describes YWCA's services and contains contact information including the YWCA's mailing address, and telephone numbers including toll-free hotline numbers where available. Any updated contact information will be the responsibility of the YWCA to provide to MDOC for distribution.
- Enable reasonable communication between inmates and the YWCA in as confidential a manner as possible. MDOC will determine, in its sole discretion, whether the communication opportunity is reasonable in light of housing assignment, physical facility limitations, safety and security concerns, and operational considerations including staffing levels. MDOC will also determine, in its sole discretion, whether the communication opportunity is as confidential as is possible in the circumstances of a secure prison facility. In that regard, MDOC will facilitate as private an environment for such communications as is practical as determined by MDOC in its sole discretion. Inmate phone calls (initiated or received by the inmate) are recorded pursuant to established MDOC policy subject to limited established exceptions and protocols.
- Offer training as needed to YWCA's victim advocates who are providing services pursuant to this MOU. Training will cover the standards relevant to the MOU, boundaries advocates must keep with inmates, and general PREA information.
- Notify inmates, prior to giving them access to communications with the YWCA, 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. This notification will be included in the brochure provided to inmates.

YWCA will:

- Provide confidential emotional support services and crisis intervention contacts to victims of sexual abuse residing in MDOC facilities, as resources allow.
- Screen the individuals providing support services to inmate victims of sexual abuse or sexual assault, for appropriateness to serve in that capacity. No YWCA employee who has a felony criminal record or a felony or misdemeanor conviction for exploitative offenses against vulnerable victims, may have any role in relation to this Memorandum of Understanding or in providing services to MDOC inmates.
- Maintain records showing satisfactory proof of its due diligence in regard to #2 and provide copies of same to MDOC upon request.
- Comply with all MDOC policies and procedures regarding correspondence, and the inmate telephone and financial systems. Policies and procedures will be provided to the YWCA upon request.
- Maintain confidentiality of communications with inmates.
- Communicate any questions or concerns to MDOC.
- Forward any new allegations of abuse in accordance with state law and Part 1 of this agreement.

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.

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.

This was fully executed on July 9, 2018 and was completed as corrective action for this standard. A new brochure entitled *End the Silence* was made to include the information which states:

If you are abused, confidential support services are available from YWCA and can be reached at:

YWCA, Missoula. All Communication with YWCA advocates is subject to monitoring in accordance with DOC policy 3.3.6 Offender Mail and DOC policy 3.3.7, offender access to telephones. The address and phone number were provided.

Standard 115.54: Third-party reporting

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

115.54 (a)

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

Auditor Overall Compliance Determination

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

Documents and Policy Reviewed

Pre-Audit Questionnaire
Montana Policy Directive, DOC 1.1.17 *Prison Rape Elimination Act of 2003 (PREA)*
RCF Operational Procedure, DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*
End the Silence Brochure
Inmate Posters, English and Spanish

Interviews

PREA Coordinator
PREA Compliance Manager (PREA Specialist)

Findings

DOC Policy 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)* stated that inmates may report through a third party. Inmate education also includes information on third party reporting. Interviews with inmates indicated an awareness of third party reporting. PREA Audit Report 26

Third party reporting information is published on the MDOC website at <https://cor.mt.gov/PREA>.

The Montana Department of Corrections has established a PREA reporting email address, CORPREAReporting@mt.gov. The email address is monitored by the PREA Coordinator and the Department Quality Assurance Director. The email was established as a reporting mechanism for any individual, staff, community member, or offender. It allows for staff to privately report outside of their facility chain of command.

The auditor emailed this address on two occasions prior to the audit, and for each was responded to within 10 minutes.

OFFICIAL RESPONSE FOLLOWING AN INMATE REPORT

Standard 115.61: Staff and agency reporting duties

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

115.61 (a)

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

115.61 (b)

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

115.61 (c)

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

115.61 (d)

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

115.61 (e)

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

Auditor Overall Compliance Determination

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

Documents and Policy Reviewed

Pre-Audit Questionnaire
Montana Policy Directive, DOC 1.1.17 *Prison Rape Elimination Act of 2003 (PREA)*

Interviews

PREA Coordinator
PREA Compliance Manager (PREA Specialist)
Mental Health Staff

Findings

(a) DOC Policy 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)* outlines the agency's zero tolerance and informs staff they must immediately report to the shift supervisor as soon as a staff is informed of, or witnesses an incident of sexual abuse or sexual harassment.

(b) DOC Policy 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)* states that staff who report shall mark the report as confidential and limit information to appropriate staff.

(c) Medical and mental health practitioners have the same reporting requirements as staff. Interviews with medical and mental health staff indicated they were aware that they needed to inform inmates of

their duty to report and limitation of confidentiality at the initiation of service. RCF Operating Procedure 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, states that unless otherwise precluded by law, medical and mental health practitioners will report sexual abuse and will inform residents of their duty to report, and the limitation of confidentiality, at the initiation of services.

(d) DOC Policy 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)* states that in accordance with 41-3-201 MCA, if a youth offender (under the age of 18) has been victimized, Department of Public Health and Human Services (DPHHS) must be notified by contacting the Montana child abuse hotline at (866) 820-5437.

(e) RCF Operating Procedure 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)* stated that Command Post staff and the PREA Specialist will review sexual abuse or sexual harassment allegations and either forward all information to the Office of the Investigations or the appropriate RCF staff to conduct an administrative investigations. All staff was aware of the reporting requirements.

The facility began using an informed consent form on April 4, 2018, the form states:

Medical, Dental, and Mental Health services at Riverside are provided by qualified professionals. If necessary, you may receive routine services from a dentist, dental hygienist, physician, licensed practical nurse, registered nurse, nurse practitioner, physician assistant licensed clinical social worker (LCSW), licensed addiction counselor (LAC).

Routine medical services available to you at Riverside include:

- *Oral, intramuscular, intravenous medication administration*
- *Nursing assessment*
- *Medical/physical assessment*
- *Outpatient clinical services*

Routine laboratory and diagnostic testing (eg: blood or urine testing for medication management, infection screening, body function testing)

Dental services available to you while at Riverside may include:

- *Exams*
- *Urgent/Emergent care*
- *Diagnostic testing*
- *Basic restorations*

Mental health services available to you at Riverside may include:

- *Mental health assessments*
- *Individual counseling with a LCSW and LAC*
- *Emergency mental health evaluations*
- *Psychiatric medication management.*

You may participate in these services, depending on your individual needs. You have the right to refuse services at any time.

The Department of Corrections and Riverside personnel have set up policies and procedures designed to keep the information confidential and only available to staff members with a need to know the information for treatment, or security purposes. However, Clinical Services staff are obligated to breach confidentiality and report any threat of harm to yourself or others, child abuse, elder abuse, sexual abuse, or threat of escape.

I have read or have had read to me and understand the above Information. I have received a copy of the Riverside Privacy Practices My questions about Health Services have been answered. Any invasive procedures will require informed consent prior to or at the time of the needed procedure.

I consent to participation in medical, dental and mental health Services at Riverside.

Standard 115.62: Agency protection duties

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

115.62 (a)

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

Auditor Overall Compliance Determination

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

Documents and Policy Reviewed

Pre-Audit Questionnaire
Montana Policy Directive, DOC 1.1.17 *Prison Rape Elimination Act of 2003 (PREA)*
RCF Operational Procedure, 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*

Interviews

PREA Coordinator
PREA Compliance Manager (PREA Specialist)
Random Staff
Supervisors
Investigators

Findings

DOC Policy 1.1.17, Prison Rape Elimination Act of 2003 (PREA) clearly outlines the agency's policy of zero tolerance against sexual misconduct to include sexual abuse, sexual harassment and retaliation including separating the victim and suspect and keeping the victim safe. It also states that Administrators or designees, will immediately respond to allegations of sexual abuse and sexual harassment, fully investigate reported incidents in accordance with DOC Policy 3.19.19, *Investigations*, pursue disciplinary actions, and refer for investigation and prosecution those who violate the requirements set forth in this policy.

DOC Policy 1.1.17, Prison Rape Elimination Act of 2003 (PREA) and RCF Operational Procedure, 1.1.17, *Prison Rape Elimination Act (PREA)* state that staff who receive a report of sexual abuse or sexual harassment will separate the victim from the alleged perpetrator to protect the victim and prevent violence.

A review of policy and staff interviews demonstrated that risk assessments are completed for every inmate. Information from this assessment is utilized to assist in identifying those at risk for sexual victimization and those at risk of being sexually abusive. This information is used when determining housing assignments that are most appropriate.

Auditor interviews with the Agency's Quality Assurance Director, Warden, and random staff demonstrated an agency understanding of the requirement to report allegations immediately and knew what steps would be taken to separate the potential victim from the suspected aggressor.

Standard 115.63: Reporting to other confinement facilities

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

115.63 (a)

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

115.63 (b)

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

115.63 (c)

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

115.63 (d)

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

Auditor Overall Compliance Determination

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

Documents and Policy Reviewed

Pre-Audit Questionnaire

Montana Policy Directive, DOC 1.1.17 *Prison Rape Elimination Act of 2003 (PREA)*

RCF Operational Procedure, RCF 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*

Interviews

PREA Coordinator

PREA Compliance Manager (PREA Specialist)

Findings

(a-d)DOC Policy 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)* and RCF Operational Procedure, RCF 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)* state that allegations that an offender was sexually abused while at another facility or program must be reported by the administrator to the administrator of the facility or program where the abuse occurred as soon as possible but no later than 72 hours after the initial report.

Samples of notifications were provided as supporting documentation at the Agency level, however, there were no instances of such notifications at RCF during the review period, as per the PAQ and discussion with staff. The samples were within the required timeframe.

Reports to other confinement facilities are documented in the Departments SharePoint web based program.

The PAQ indicated that there were no instances of this occurring during the review period.

Standard 115.64: Staff first responder duties

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

115.64 (a)

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

115.64 (b)

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

Auditor Overall Compliance Determination

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

Documents and Policy Reviewed

Pre-Audit Questionnaire
Montana Policy Directive, DOC 1.1.17 *Prison Rape Elimination Act of 2003 (PREA)*

Interviews

PREA Coordinator
PREA Compliance Manager (PREA Specialist)
Random Staff
Supervisory Staff
Investigators

Findings

(a-b) DOC Policy 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)* details steps first responders are required to take. Staff who receive a report of sexual abuse or sexual harassment will:

1. separate the victim from the alleged perpetrator to protect the victim and prevent violence,
2. promptly intervene on the victim's behalf to ensure prompt medical and psychological assistance including an assessment for potential risk of suicide; and
3. protect evidence in accordance with DOC 3.1.28, *Crime Scene and Physical Evidence Preservation*;
 - a. staff will request that the alleged victim and ensure that the alleged abuser not take any actions that could destroy physical evidence such as bathing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking or eating; or
 - b. if the first staff responder is not a security staff member, the responder must request that the alleged victim not take any actions that could destroy physical evidence, and then notify security staff.

According to the PAQ, during the past twelve months, there was one allegation that an inmate was sexually abused. This investigation was reviewed and clearly illustrates that staff responded accordingly.

During the random staff interviews, numerous staff were confused on these steps. Due to the nature of this program, an instance was provided in detail to the auditor in which two inmates involved in a matter were placed together in a room to discuss and work out the matter.

CORRECTIVE ACTION: Retrain all staff and document on first responder duties. Forward this documentation to the auditor. All staff were retained, 100 percent and all forms were sent to the auditor on June 7, 2018.

Standard 115.65: Coordinated response

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

115.65 (a)

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

Auditor Overall Compliance Determination

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

Documents and Policy Reviewed

Pre-Audit Questionnaire
Montana Policy Directive, DOC 1.1.17 *Prison Rape Elimination Act of 2003 (PREA)*
RCF Sexual Assault Team Protocol

Interviews

PREA Coordinator

Findings

RCF Operating Procedure 1.1.17, Prison Rape Elimination Act of 2003 (PREA) outlines a detailed written institutional plan that coordinates actions taken in response to an incident of sexual abuse, among first responders, medical and mental health practitioners, investigators and facility leadership.

The coordinated plan outlines staff first responder duties, including immediate notification of the allegation to the Command Post. The Command Post and the PREA Specialist, or designee reviews the allegations and assigns it for investigation. Medical is notified and offers the inmate an assessment.

If within 72 hours, RCF medical staff will transport the inmate to an outside medical provider for additional assessments. Medical staff notifies the Office of Investigations to obtain the evidence. Medical staff will refer inmates to mental health staff. Mental Health staff (or the Command Post in the event Mental Health staff are unavailable) will complete an Emergency Interview Form.

RCF Sexual Assault Team Protocol was reviewed which detailed the first responder steps and provided a visual flow chart of incidents that appear to be criminal in nature and those that do not appear to be criminal in nature.

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

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

115.66 (a)

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

115.66 (b)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

Exceeds Standard (*Substantially exceeds requirement of standards*)

XXX 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

Documents and Policy Reviewed

Pre-Audit Questionnaire
Collective Bargaining Unit Agreement
Notice of Administrative Leave

Interviews

PREA Coordinator
PREA Compliance Manager (PREA Specialist)

Findings

(a-b) A review of the Collective Bargaining Agreements between the Riverside Correctional Facility Employees, Local #4700, MEA-MFT, AFT, AFL-CIO and the Riverside Correctional Facility Montana Department of Corrections 2013-2015 and was provided for the auditor's review. There was no language preventing the removal of staff alleged to have committed sexual abuse from contact with inmates pending the outcome of the investigation.

Interviews with human resource staff verified that there was no language in any collective bargaining agreement that would prevent an alleged staff abuser from being removed from inmate contact pending the outcome of an investigation. A review of investigative files supported compliance with this standard.

Standard 115.67: Agency protection against retaliation

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

115.67 (a)

- Has the agency established a policy to protect all inmates and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other inmates or staff? XXX Yes No

- Has the agency designated which staff members or departments are charged with monitoring retaliation? XXX Yes No

115.67 (b)

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

115.67 (c)

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

115.67 (d)

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

115.67 (e)

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

115.67 (f)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

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

Documents and Policy Reviewed

Pre-Audit Questionnaire
Montana Policy Directive, DOC 1.1.17 *Prison Rape Elimination Act of 2003 (PREA)*
PREA Retaliation Monitoring Data Sheet
Training Roster

Interviews

PREA Coordinator
PREA Compliance Manager (PREA Specialist)

Findings

(a) DOC Policy 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)* stated that the Department will not tolerate retaliation against offenders, employees, or other parties for reporting sexual misconduct. Individuals that retaliate against any offender or witness are subject to disciplinary action. Facilities and programs will employ protective measures, such as transfers or removals, to separate victims from abusers.

(b) Interviews with the facility PREA Specialist and facility staff indicated that there are multiple protection measures, such as housing changes or transfers for inmate victims or abusers, removal of alleged staff or inmate abusers from contact with victims, and emotional support services for inmates or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations.

(c) DOC Policy 1.1.17 Prison Rape Elimination Act of 2003 (PREA) stated that The facility or program will monitor, for at least 90 days, the conduct and treatment of offenders and staff who reported sexual abuse or sexual harassment and offenders who were reported to have suffered sexual abuse or sexual harassment to prevent retaliation. For offenders, this will include periodic status checks. Monitoring will continue beyond 90 days if there is a continuing need. Each facility will designate a staff member responsible for retaliation monitoring. At RCF, the Case Managers are responsible to conduct the monitoring.

RCF utilizes a Retaliation Monitoring Data Sheet ensures the following items are reviewed for indications that retaliation may have occurred: Inmate Disciplinary Reports; Performance Evaluations; Housing Changes; Program Changes; and includes a face to face interview to determine if retaliation is alleged to have occurred.

(d) Monitoring is done weekly and interviews with staff who monitor indicate it is occurring from at least 90 days to six months usually. A review of completed sheets indicated this was occurring. The Auditor selected nine (9) to review and all were in compliance. Almost all review dates were conducted with in-person review, which is a great practice.

(e) The Retaliation Monitoring Data Sheets include those who cooperated with the investigation.

Training documentation for the staff that conducts retaliation monitoring was completed on May 9, 2018. Documentation was provided to the auditor. The Confinement operations procedure was updated to include language on protective custody. It was forwarded to the auditor to verify on July 3, 2018 and is in compliance.

Standard 115.68: Post-allegation protective custody

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

115.68 (a)

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

Auditor Overall Compliance Determination

Exceeds Standard (*Substantially exceeds requirement of standards*)

XXX 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

Documents and Policy Reviewed

Pre-Audit Questionnaire

Montana Policy Directive, DOC 1.1.17 *Prison Rape Elimination Act of 2003 (PREA)*

Interviews

PREA Coordinator

PREA Compliance Manager (PREA Specialist)

Findings

RCF does not house inmates who are at risk for sexual victimization or who have suffered sexual abuse in segregated housing unless it is a last resort. The facility stated this has not taken place in the past 12 months.

The facility developed a confinement operations procedure with protective custody language in it. This was sent to the auditor to review on July 3, 2018 and it includes language in the standard that any and all use of segregated housing to protect an inmate who is alleged to have suffered sexual abuse subject to the requirements.

INVESTIGATIONS

Standard 115.71: Criminal and administrative agency investigations

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

115.71 (a)

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

- Does the agency conduct such investigations for all allegations, including third party and anonymous reports? [N/A if the agency/facility is not responsible for conducting any form of criminal OR administrative sexual abuse investigations. See 115.21(a).] XXX Yes No NA

115.71 (b)

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

115.71 (c)

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

115.71 (d)

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

115.71 (e)

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

115.71 (f)

- Do administrative investigations include an effort to determine whether staff actions or failures to act contributed to the abuse? XXX 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? XXX Yes No

115.71 (g)

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

115.71 (h)

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

115.71 (i)

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

115.71 (j)

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

115.71 (k)

- Auditor is not required to audit this provision.

115.71 (l)

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

Auditor Overall Compliance Determination

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

Documents and Policy Reviewed

Pre-Audit Questionnaire

Montana Policy Directive, DOC 1.1.17 *Prison Rape Elimination Act of 2003 (PREA)*

Montana Policy Directive, DOC 3.1.13, *Administrative Investigations*

Montana Policy Directive, DOC 3.1.19, *Facility/Program Operations*

General Report

Investigation Referral Process

Interviews

PREA Coordinator

PREA Compliance Manager (PREA Specialist)

Investigator

Supervisors

Findings

(a) DOC Policy 3.1.19, *Investigations*, DOC Policy 3.1.28 and DOC Policy 1.3.13 *Administrative Investigations* outlines how investigations are handled. The policy specifically stated that investigations shall be conducted fairly and objectively and investigators shall exercise professionalism during the course of the investigation.

Interviews with both criminal and administrative investigators indicated they understood allegations of sexual abuse and sexual harassment should be handled promptly, thoroughly, and objectively for all allegations, including third-party and anonymous reporting.

(b) DOC Policy 3.1.19, *Investigations*, DOC Policy 3.1.28 states that specialized training shall be completed prior to conducting sexual assault or other specialty type investigations. Training rosters were provided to the auditors, which showed investigators at RCF had received the specialized training. Interviews with investigators also indicated training had been received.

(c) Interviews with investigators indicated they understood they shall gather and preserve direct and circumstantial evidence, including any available DNA evidence and any available electronic monitoring data and shall interview alleged victims, suspected perpetrators, and witnesses; and shall review prior complaints and reports of sexual abuse involving the suspected perpetrator.

(d) Interviews with investigators indicated they understood that if the quality of evidence appears to support criminal prosecution, the agency shall conduct compelled interviews only after consulting with prosecutors.

(e) Interviews with investigators indicated they understood the credibility of an alleged victim, suspect, or witness shall not be determined by the person’s status as an inmate or a staff and that they would not require an inmate who alleged sexual abuse to submit to a polygraph examination or other truth telling device as a condition for proceeding with an investigation.

(f-g) Administrative investigations were reviewed during the audit. The investigations documented in the written reports provided a description of evidence, reasons behind credibility assessments, and investigative facts and findings.

(h) DOC Policy 3.1.19, *Investigations*, DOC Policy 3.1.28 states that criminal investigations will be forwarded with a Request for Prosecution to the county attorney having jurisdiction for a determination of whether a case will be prosecuted.

(i) Interviews with investigators indicated an understanding of the requirement.

Standard 115.72: Evidentiary standard for administrative investigations

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

115.72 (a)

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

Auditor Overall Compliance Determination

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

Documents and Policy Reviewed

Pre-Audit Questionnaire

Montana Policy Directive, DOC 1.1.17 *Prison Rape Elimination Act of 2003 (PREA)*

RCF Operational Procedure, RCF 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*

Interviews

PREA Coordinator
PREA Compliance Manager (PREA Specialist)

Findings

The auditor reviewed DOC Policy 1.1.17, *Prison Rape Elimination Act of 2003 (PREA) and RCF Operational Procedure, RCF 1.1.17, Prison Rape Elimination Act of 2003 (PREA)* which state that investigators will not use a standard higher than preponderance of the evidence in determining whether allegation of sexual abuse or sexual harassment are substantiated.

Standard 115.73: Reporting to inmates

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

115.73 (a)

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

115.73 (b)

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

115.73 (c)

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

that the staff member has been indicted on a charge related to sexual abuse in the facility? XXX Yes
No

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

115.73 (d)

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

115.73 (e)

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

115.73 (f)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

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

Documents and Policy Reviewed

Pre-Audit Questionnaire
Montana Policy Directive, DOC 1.1.17 *Prison Rape Elimination Act of 2003 (PREA)*
RCF Operational Procedure, RCF 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*
Memorandum Sample

Interviews

PREA Coordinator
PREA Compliance Manager (PREA Specialist)
Investigative Staff
Supervisors

Findings

(a) *DOC Policy 1.1.17, Prison Rape Elimination Act of 2003 (PREA) and RCF Operational Procedure, RCF 1.1.17, Prison Rape Elimination Act of 2003 (PREA)* state that following an investigation of sexual abuse or sexual harassment, the PREA Specialist will inform the inmate whether the allegation has been determined to be substantiated, unsubstantiated or unfounded.

The facility PREA Specialist explained this is completed on a letter and sent to the inmate.

(b-d) The facility also provides the inmate a notification if the staff member is no longer posted within the inmate's unit, the staff member is no longer employed at RCF, the staff member is indicted or convicted on a charge related to sexual abuse within the facility, or if an inmate has been indicted on a charge related to sexual abuse within the facility.

(e) The notifications are documented with a letter and a check off sheet that the facility PREA Specialist maintains copies of for documentation. The facility stated in the PAQ that no notification was made to any inmate in the twelve months preceding the audit. After the date of the PAQ, two inmate letters were drafted and provided to inmates on two cases. These were provided to the auditor to review for compliance. The two samples were in memo form written to the inmate and had a space for the inmate to sign and date the form. The letter included language which states: *The elements of your compliance have been carefully examined and investigated. It is important that you understand that Riverside Correctional Facility has zero tolerance relating to nonconsensual acts, offender on offender sexual abuse, sexual misconduct, and staff sexual harassment in accordance with the standards set forth in the Prison Rape Elimination Act (PREA). After investigating the PREA complaint presented, RCF has come to the conclusion that the result of the investigation is substantiated. RCF staff will continue to perform their duties related to safety and security, while adhering to the PREA standards.*

(f) The facility PREA Specialist was aware that the agency's obligation to report under this standard shall terminate if the inmate is released from the agency's custody.

DISCIPLINE

Standard 115.76: Disciplinary sanctions for staff

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

115.76 (a)

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

115.76 (b)

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

115.76 (c)

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

115.76 (d)

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

Auditor Overall Compliance Determination

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

Documents and Policy Reviewed

Pre-Audit Questionnaire

Montana Policy Directive, DOC 1.1.17 *Prison Rape Elimination Act of 2003 (PREA)*

RCF Operational Procedure, *RCF 1.1.17, Prison Rape Elimination Act of 2003 (PREA)*

Samples of Administrative Investigation Warning

Sample of Administrative Leave Notice

Sample of Demotion Notice

Sample of Written Warning

Sample of Suspension

Interviews

PREA Coordinator

PREA Compliance Manager (PREA Specialist)

HR Staff

Investigators

Warden

Findings

(a) *DOC Policy 1.1.17, Prison Rape Elimination Act of 2003 (PREA)* and *RCF Operational Procedure, RCF 1.1.17, Prison Rape Elimination Act of 2003 (PREA)* state staff who violate this procedure are subject to administrative discipline including termination of employment, criminal prosecution, or both.

(b) An interview with Human Resources indicated that termination shall be the presumptive disciplinary sanction for staff who have engaged in sexual abuse.

The facility stated that in the past 12 months there has been no staff terminated for violation of agency sexual abuse or sexual harassment policies.

(c) An interview with Human Resources indicated all disciplinary sanctions for violations of agency policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) shall be 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.

(d) An interview with Human Resources indicated 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, shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies.

Standard 115.77: Corrective action for contractors and volunteers

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

115.77 (a)

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

115.77 (b)

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

Auditor Overall Compliance Determination

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

Documents and Policy Reviewed

Pre-Audit Questionnaire

Montana Policy Directive, DOC 1.1.17 *Prison Rape Elimination Act of 2003 (PREA)*

RCF Operational Procedure, RCF 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*

Interviews

PREA Coordinator
PREA Compliance Manager (PREA Specialist)
HR Staff
Warden

Findings

(a) *DOC Policy 1.1.17, Prison Rape Elimination Act of 2003 (PREA) and RCF Operational Procedure, RCF 1.1.17, Prison Rape Elimination Act of 2003 (PREA)* state that service providers who violate the PREA policy are subject administrative sanctions including removal and denial of access, criminal prosecution or both.

The facility stated that during the previous 12 months there were no contractors or volunteers reported to law enforcement.

(b) During an auditor interview with the warden, he expressed that any contractor or volunteer who had an allegation of sexual abuse or sexual harassment brought against them would be removed from inmate contact until the investigation was complete. If the allegation was substantiated, their access to the facility would be terminated immediately.

Standard 115.78: Disciplinary sanctions for inmates

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

115.78 (a)

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

115.78 (b)

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

115.78 (c)

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

115.78 (d)

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

115.78 (e)

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

115.78 (f)

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

115.78 (g)

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

Auditor Overall Compliance Determination

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

Documents and Policy Reviewed

Pre-Audit Questionnaire

Montana Policy Directive, DOC 1.1.17 *Prison Rape Elimination Act of 2003 (PREA)*
RCF Operational Procedure, *RCF 1.1.17, Prison Rape Elimination Act of 2003 (PREA)*
Montana Policy Directive, DOC 3.4.1 *Offender Disciplinary System*
Montana Policy Directive, DOC 3.4.2 *Prohibited Acts*

Interviews

PREA Coordinator
PREA Compliance Manager (PREA Specialist)
Warden
HR Staff

Findings

(a) *RCF Operational Procedure 3.4.1, Institutional Discipline*, outlines that offenders are subject to disciplinary sanctions if they are found in violation and adjudicated as guilty of a misconduct violation. The sanctions available for sexual abuse and sexual harassment are: rape, sexual assault, sexual abuse, engaging in sexual acts, making sexual proposals, threats, or harassing marks, kissing, or inappropriate touching, directly or through the clothing of the genitalia, anus, groin, breast, inner thigh or buttocks. All are major rule infractions resulting in varying sanctions.

RCF reported in the PAQ that in the previous 12 months, there were no reported incidents of inmate on inmate sexual abuse that were substantiated, therefore no disciplinary reports were available to review at the time of the audit. After the on-site portion of the audit, the facility forwarded to the Auditor a disciplinary action on an inmate that was given as a result of a substantiated case.

(b) The disciplinary grid is commensurate with the nature and circumstances of the offense and the offender. Varying sanctions include cell restriction, detention, and loss of good time, fines and other sanctions.

An interview with the Warden indicated this was occurring.

(c) This process takes into account the inmate's mental disabilities/illness that contributed to his/her behavior when considering what type of sanction, if any, should be imposed.

An interview with the Warden indicated this was occurring.

(d) RCF does offer treatment to address and correct underlying reasons or motivations for sexual abuse. The disciplinary grid does allow for a sanction to be a referral to such treatment.

(e) The facility PREA Specialist stated that the agency only disciplines an inmate for sexual contact with staff only upon a finding that the staff member did not consent to such contact.

There was no indication that inmates have been disciplined for having sexual contact with a staff that consented.

(f) RCF reported that the agency prohibits disciplinary action for a report of sexual abuse made in good faith upon a reasonable belief that the alleged conduct occurred, even if an investigation does not establish evidence sufficient to substantiate the allegation.

(g) RCF does prohibit all sexual activity between inmates; however consensual sexual activity does not constitute sexual abuse if it is determined that the activity was not coerced.

After the PAQ was sent and prior to the audit, an incident occurred and was provided to the auditor for review. The incident involved a charge for the inmate on *Any Inappropriate Sexual Activity* and *Any Condition which Disrupts or Interferes with the Security or Orderly Running of the Institution*. The auditor reviewed this matter from the initial incident report, the investigation and interviews, and the disposition. The inmate, who was found guilty (the case was substantiated) was charged and disciplined according to the facility policy. This case was referred to be looked into by law enforcement to see if a criminal investigation would commence and it was not processed as such by law enforcement. Administratively, the case was completed and discipline was in line with the finding and policy.

MEDICAL AND MENTAL CARE

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

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

115.81 (a)

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

115.81 (b)

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

115.81 (c)

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

115.81 (d)

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

115.81 (e)

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

Auditor Overall Compliance Determination

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

Documents and Policy Reviewed

Pre-Audit Questionnaire

Montana Policy Directive, DOC 1.1.17 *Prison Rape Elimination Act of 2003 (PREA)*

RCF Operational Procedure, RCF 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*

Onsite Observations

No BH Files were able to be reviewed, as they were not maintained at the time of the audit

Interviews

PREA Coordinator

PREA Compliance Manager (PREA Specialist)

Mental Health Staff

Medical Staff, Specialized Staff

Findings

A. and B. Policy states that there is a Mandatory Disclosure and Information for Behavioral Health Clients. It states that the staff will obtain informed consent from the offender before reporting incidents that did not occur in an institutional setting.

Policy states that initial intake assessments will be completed and should the offender state that he has experienced prior victimization, either inside or outside of an institutional setting, that the offender will be offered follow up within fourteen days.

This information is confidential and strictly limited to medical and mental health clinicians 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 law.

After a random selection of inmate intake screenings were reviewed, it was seen by the auditor that referrals are not being completed. Not one example was shown. For corrective action as it relates to this standard, the facility will: Educate intake staff, medical and mental health staff, case managers of this requirement and document said training and develop form to complete referrals or a signature place if inmates refuse. These will be forwarded to the auditor to review during the corrective action period.

(c) RCF is a prison facility, therefore this provision of this standard is not applicable

(d) Not found in policy or procedure

(e) Not found in policy or procedure

According to the PAQ, the facility indicated that in the past twelve months, 80 percent of inmates have disclosed prior victimization during screening and were offered a mental health follow up screening. In addition, the PAQ indicated that 100 percent of the inmates have previously perpetrated sexual abuse as indicated in their screenings and were offered a follow up screening.

At the time of the on-site portion of the audit, there are no mental health files, documentation of follow up meetings or referrals.

CORRECTIVE ACTION: Retrain the Mental Health Staff member, create files for each and begin to log all visits. The auditor will want to see this training, new folders, process forms and samples.

At RCF, there is one mental health staff member assigned. She was retrained for corrective action on both the comprehensive PREA training and the Specialized Training for medical and mental health. Both lesson plans, acknowledgement sheets and certificates were forwarded to the auditor and

reviewed. The comprehensive training was on July 12, 2018 and the Specialized training on was on February 7, 2018. In addition, she attended the staff reporting and corrective action training on May 10, 2018.

Based on a phone call with the BH Manager on August 17, 2018, the files which were previously agreed to be built for part of the corrective action, were not created. Central Office sent down a team to immediately create files for all inmates in the facility. All files were created with intake information, basic BH forms and all required documents. Copies of all and pictures were sent to the auditor to illustrate completion.

In addition, a new intake occurred on September 6, 2018. The initial mental health documentation that was completed and placed in this inmates file was sent to the auditor, to include her basic information sheet, PREA risk assessment, and the signed disclosure and consent for services.

In addition, and prior to this new intake, a 30 day assessment was sent to the auditor with an inmate who requested to have follow up with a provider. In addition, a MH Contact Note form was also included and forwarded to the auditor to illustrate compliance with their follow up on this process.

Standard 115.82: Access to emergency medical and mental health services

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

115.82 (a)

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

115.82 (b)

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

115.82 (c)

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

115.82 (d)

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

Auditor Overall Compliance Determination

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

Documents and Policy Reviewed

Pre-Audit Questionnaire

Montana Policy Directive, DOC 1.1.17 *Prison Rape Elimination Act of 2003 (PREA)*

RCF Operational Procedure, RCF 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*

Onsite Observations

No files at the time of the audit existed, so this could not be verified on-site.

Interviews

PREA Coordinator

PREA Compliance Manager (PREA Specialist)

Medical Staff, Specialized Staff

Findings

- A. Policy states that clinical services will conduct a cursory assessment of any victim of sexual assault. Urgent and emergent medical care is provided at the facility as needed. Additional medical care is provided during or after the forensic exam. Victims shall receive timely, unimpeded access to emergency medical treatment and crisis intervention services.

- B. RCF Policy 1.1.17 states that If a security staff member is responding to an incident that has just occurred, the security staff member will: perform a cursory assessment to identify any urgent medical needs+;
- C. Policy DOC 1.1.17, Prison Rape Elimination Act states that services will include, at a minimum: access to medical examination and treatment to include follow up care and referrals; mental health crisis intervention and treatment timely access to emergency contraception, STD prophylaxis, all pregnancy related tests and services; and access to a victim advocate or rape crisis center counselor who can offer emotional support services throughout the investigation process, or access to a qualifies facility staff person.
- D. Policy DOC 1.1.17, Prison Rape Elimination Act also indicates that treatment services provided to victims shall be without financial cost and shall be regardless if the victim names the abuser or cooperates.

During the review period, MRCF has not conducted any assessments for victims of sexual assault.

During two separate interviews with members of medical staff, each was extremely well versed in all areas of this standard. In addition, medical staff interviewed was aware of their roles. However, BH staff do not document so are unable to show if any referrals or visits were conducted.

Based on a phone call with the BH Manager on August 17, 2018, the files which were previously agreed to be built for part of the corrective action, were not created. Central Office sent down a team to immediately create files for all inmates in the facility. All files were created with intake information, basic BH forms and all required documents. Copies of all and pictures were sent to the auditor to illustrate completion.

In addition, a new intake occurred on September 6, 2018. The initial mental health documentation that was completed and placed in this inmates file was sent to the auditor, to include her basic information sheet, PREA risk assessment, and the signed disclosure and consent for services.

In addition, and prior to this new intake, a 30 day assessment was sent to the auditor with an inmate who requested to have follow up with a provider. In addition, a MH Contact Note form was also included and forwarded to the auditor to illustrate compliance with their follow up on this process.

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

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

115.83 (a)

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

115.83 (b)

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

115.83 (c)

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

115.83 (d)

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

115.83 (e)

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

115.83 (f)

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

115.83 (g)

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

115.83 (h)

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

Auditor Overall Compliance Determination

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

Documents and Policy Reviewed

Pre-Audit Questionnaire
Montana Policy Directive, DOC 1.1.17 *Prison Rape Elimination Act of 2003 (PREA)*
RCF Operational Procedure, RCF 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*
RCF Patient Care Protocol

Onsite Observations

No files exist for the inmate population as they related to their BH Care.

Interviews

PREA Coordinator
PREA Compliance Manager (PREA Specialist)
BH Manager

Findings

(a) *DOC Policy 1.1.17, Prison Rape Elimination Act of 2003 (PREA)* outlines the facility's medical and mental health evaluation process for inmates who have been victimized by sexual abuse. Medical and mental health evaluations and as appropriate, treatment are completed with inmates who have been victimized by sexual abuse at the facility.

(b) Interviews with medical and mental health providers indicated the evaluation and treatment of victims shall 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.

(c) Interviews with medical and mental health providers indicated that the medical and mental health services are consistent with the community level of care.

(d-e) Interviews with medical staff indicated victims of sexually abusive vaginal penetration while incarcerated would be offered pregnancy tests and comprehensive information about the timely access to all lawful pregnancy-related medical services. The facility does not currently have any female inmates.

(f) DOC Policy 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)* states that victims will be referred to appropriate health care providers responsible for treatment and follow up care for sexually transmitted or other communicable diseases.

Interviews with medical staff indicated this was completed.

(g) DOC Policy 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)* states that treatment will be made available without financial cost.

Interviews indicated treatment would be provided regardless of if the victim named the abuser or cooperated with the inmate investigation.

(h) Interviews with mental health staff indicated that a mental health evaluation of all known inmate – on-inmate abusers would be completed within 60 days of learning of such abuse history, and treatment offered when deemed appropriate by mental health practitioners.

CORRECTIVE ACTION WILL CORRESPOND WITH THE CORRECTIVE ACTION FOR 115.81.

As corrective action, the BH Manager at the DOC level, sent an email to her staff, on May 14, 2018, which stated”

Thank you for the meeting last week, I am sorry you (remaining staff) were not able to join us.

Here is the re-cap of our meeting which outlined the directions for moving forward as a follow up from the PREA audit.

TRAINING

- *Staff will need to complete the required DOC PREA training. The training is currently only being offered at MSP during the New Employee Orientation which occurs every month. There will be a class held in June and a class in July. I will get the specific date and time of the PREA section so staff can plan to attend one of those.*

INFORMED CONSENT

- *The final version of the Clinical Services Division Disclosure and Consent for Services form is completed. This form will be completed with each offender coming to Riverside during the intake process. Once the form is completed it will be placed in each offenders medical record.*

MENTAL HEALTH SERVICE NOTES

- *A mental health file is to be made for each offender at Riverside*
- *Each offender who has an encounter for mental health will need a mental health contact note (name, date, time, nature of visit ---examples would be: routine session, follow-up visit, initial visit, intake, emergent, group, etc...., and plan. I did leave examples from MSP of these generalized notes with you to share with staff. These are not psychotherapy notes. These can be typed notes or hand written which ever staff prefers.*
- *A scheduling or tracking system for patients seen through mental health needs to be implemented. This can be done through a scheduling book or the computer system, whichever staff prefers.*
- *A mental health contact note will need to be made for all PREA incidents, the initial and then follow up. Signature of the form only does not put the DOC in compliance, additional notes are required.*

Please let me know what supplies and support are needed to move this forward.

After review, and an interview was conducted with the RCF BH Manager. The auditor just wanted to follow up and ensure all steps were completed. Some service notes were sent to the auditor, however, they did not have treatment information or follow up information on them, which warranted more discussion. During the telephone discussion, the BH manager indicated that she did not and was not told to create files for each inmate. She stated that she keeps records of the visits for PREA but her ethics will not allow for her to keep thorough notes on anything else.

The Auditor immediately called the Agency PREA Coordinator to discuss as this goes against the corrective action agreed upon and the Directive given. The Agency PREA Coordinator and her supervisor held a conference call and it include the BH supervisor as well from HQ. They stated that they would address again and create files and advise the auditor of other changes by Monday, August 20, 2018.

Central Office sent down a team to immediately create files for all inmates in the facility. All files were created with intake information, basic BH forms and all required documents. Copies of all and pictures were sent to the auditor to illustrate completion.

In addition, a new intake occurred on September 6, 2018. The initial mental health documentation that was completed and placed in this inmates file was sent to the auditor, to include her basic information sheet, PREA risk assessment, and the signed disclosure and consent for services.

In addition and prior to this new intake, a 30 day assessment was sent to the auditor with an inmate who requested to have follow up with a provider. In addition, a MH Contact Note form was also included and forwarded to the auditor to illustrate compliance with their follow up on this process.

DATA COLLECTION AND REVIEW

Standard 115.86: Sexual abuse incident reviews

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

115.86 (a)

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

115.86 (b)

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

115.86 (c)

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

115.86 (d)

- Does the review team: Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse? XXX 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? XXX 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? XXX Yes No
- Does the review team: Assess the adequacy of staffing levels in that area during different shifts? XXX Yes No
- Does the review team: Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff? XXX Yes No

- Does the review team: Prepare a report of its findings, including but not necessarily limited to determinations made pursuant to §§ 115.86(d)(1) - (d)(5), and any recommendations for improvement and submit such report to the facility head and PREA compliance manager? XXX Yes No

115.86 (e)

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

Auditor Overall Compliance Determination

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

Documents and Policy Reviewed

Pre-Audit Questionnaire

Montana Policy Directive, DOC 1.1.17 *Prison Rape Elimination Act of 2003 (PREA)*

RCF Operational Procedure, RCF 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*

Onsite Observations

Sexual Assault Incident Reviews

Interviews

PREA Coordinator

PREA Compliance Manager (PREA Specialist)

Shift Supervisor

Unit Manager

Findings

- A. *DOC Policy 1.1.17, Prison Rape Elimination Act* states that they facility or program will 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.

- B. *DOC Policy 1.1.17, Prison Rape Elimination Act* states that such a review will normally occur within thirty days at the conclusion of an investigation.
- C. *DOC Policy 1.1.17, Prison Rape Elimination Act* states that the review team will include upper management from the facility, the PREA Coordinator, line supervisors, investigators, medical and mental health staff, and other staff with direct involvement.
- D. *DOC Policy 1.1.17, Prison Rape Elimination Act* states that the review team will cover:
 - a. Consider whether the allegation or investigation indicates a need to change policy or procedure to better prevent, detect or respond to sexual abuse;
 - b. Consider whether the incident or allegations was motivated by race, ethnicity, gender identity, LGBTI status or perceived status, or cause by other group dynamics at the facility;
 - c. Examine the area where the incident allegedly occurred to access whether the physical barriers in that area may enable abuse;
 - d. Access the adequacy of staffing levels;
 - e. Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff and;
 - f. Prepare a report of its findings and any recommendations for improvement and submit the report to the facility or program administrator, the PREA Coordinator and the facility PREA Compliance Manager.
- E. *DOC Policy 1.1.17, Prison Rape Elimination Act* states that the facility will implement the recommendation for improvement or documents its reasons for not doing so.

All cases are now routed through the SharePoint systems and shared with the PCM. The process was reviewed with the PCM for educational purposes and all samples during the review period were sent to the Auditor to review and illustrated compliance.

The auditor, during the document review and interviews with various staff members, felt that they process in place to ensure these are completed and tracked is excellent. However, during one particular review, a Review Team member made a suggestion in regards to a blind spot. No follow documentation could be found in regards to whether this was fixed or addressed. During the audit tour, the audit team found the same blind spot and made the same recommendation. The Auditor advised the staff during the closeout that they document these suggestions from the Review Team. If they are denied or not followed through on, which in some cases will be warranted due to finances, violations of policy, etc, it should also be documented as an attempted resolution and the reason why alternatives may need to be sought. This will show the staff and make the review teams meaningful, purposeful and allow for more participation.

Standard 115.87: Data collection

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

115.87 (a)

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

115.87 (b)

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

115.87 (c)

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

115.87 (d)

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

115.87 (e)

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

115.87 (f)

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

Auditor Overall Compliance Determination

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

Documents and Policy Reviewed

Pre-Audit Questionnaire

Montana Policy Directive, DOC 1.1.17 *Prison Rape Elimination Act of 2003 (PREA)*

RCF Operational Procedure, RCF 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*

Interviews

PREA Coordinator

PREA Compliance Manager (PREA Specialist)

Findings

- A. DOC Policy 1.1.17, Prison Rape Elimination Act states that MDOC will collect aggregate, uniform data for every allegation of sexual abuse at facilities and programs under its direct control using a standardized instrument and definitions set forth in policy.
- B. During his interview, the Agency PREA Coordinator indicated that he reviews the incident based data at least annually.
- C. The aggregated data that is retained included all the data needed to complete the most recent version of the Survey of Sexual Violence (SSV).
- D. The Agency PREA Coordinator retains all incident based documentation, investigation reports, files and sexual abuse incident reviews.
- E. The Agency does contract with private facilities and the PREA Coordinator retains incident based data from that facility as well.
- F. The PREA Coordinator states that he provides this data to the Department of Justice, as it is requested and no later than that time.

The 2015 and 2016 SSV was provided to show that the facility has reported the incident to the Department of Justice. The 2016 and 2017 Annual Report were also provided and reviewed for the auditor.

The Agency PREA Coordinator thoroughly outlined this process during her interview and clearly was extremely knowledgeable in the process.

Standard 115.88: Data review for corrective action

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

115.88 (a)

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

115.88 (b)

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

115.88 (c)

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

115.88 (d)

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

Auditor Overall Compliance Determination

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

Documents and Policy Reviewed

Pre-Audit Questionnaire

Montana Policy Directive, DOC 1.1.17 *Prison Rape Elimination Act of 2003 (PREA)*

RCF Operational Procedure, *RCF 1.1.17, Prison Rape Elimination Act of 2003 (PREA)*

Interviews

PREA Coordinator

PREA Compliance Manager (PREA Specialist)

Findings

A through C. DOC Policy 1.1.17, Prison Rape Elimination Act, outlines the process by which the PREA Coordinator will collect and aggregate data, identify problem areas, recommend corrective action, and prepare an annual report. It states that the PREA Coordinator will prepare an annual report of findings and corrective actions for each facility as well as for the agency as a whole. It shall include a comparison of the current year's data and corrective actions with those from prior years and shall provide an assessment of the agency's progress in addressing sexual assault/rape, sexual abuse, and sexual harassment. It will be approved by the Director and made public through the agency's website.

The 2014, 2015, 2016 and 2016 annual report was provided and reviewed. All required elements as per the standard and the policy are present. This report contained the corrective actions that MDOC and the facilities took during the review period.

Standard 115.89: Data storage, publication, and destruction

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

115.89 (a)

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

115.89 (b)

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

115.89 (c)

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

115.89 (d)

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

Auditor Overall Compliance Determination

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

Documents and Policy Reviewed

Pre-Audit Questionnaire

Montana Policy Directive, DOC 1.1.17 *Prison Rape Elimination Act of 2003 (PREA)*

RCF Operational Procedure, *RCF 1.1.17, Prison Rape Elimination Act of 2003 (PREA)*

Interviews

PREA Coordinator

PREA Compliance Manager (PREA Specialist)

Findings

- A. The PREA Coordinator collects data and reports from all facilities and compiles a report annually of investigations on all allegations of sexual abuse and sexual harassment.
- B. The 2014 and 2015 annual report was provided and reviewed. All required elements as per the standard and the policy are present. This report contained the corrective actions that MDOC and the facilities took during the review period. These were reviewed as published on the Department's website, for the public to review.

- C. No personal identifiers were seen in these published reports as all personal identifiers have been redacted.
- D. The PREA Coordinator retains all records of sexual abuse and sexual harassment cases pursuant to the states Records Retention Schedule. All investigative records are retained for five years after the closing of the investigation. Excluded records are those involving PREA matters which are retained for ten years after the close of the investigation. This included incident reports, investigative reports, photographs, videos, interviews and all other related items.

AUDITING AND CORRECTIVE ACTION

Standard 115.401: Frequency and scope of audits

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

115.401 (a)

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

115.401 (b)

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

115.401 (h)

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

115.401 (i)

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

115.401 (m)

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

115.401 (n)

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

Auditor Overall Compliance Determination

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

Documents and Policy Reviewed

Pre-Audit Questionnaire

Montana Policy Directive, DOC 1.1.17 *Prison Rape Elimination Act of 2003 (PREA)*

RCF Operational Procedure, RCF 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*

Interviews

PREA Coordinator

PREA Compliance Manager (PREA Specialist)

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 has 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.) **XXX** Yes No NA

Auditor Overall Compliance Determination

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

Documents and Policy Reviewed

Pre-Audit Questionnaire
Montana Policy Directive, DOC 1.1.17 *Prison Rape Elimination Act of 2003 (PREA)*
RCF Operational Procedure, RCF 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*

Interviews

PREA Coordinator
PREA Compliance Manager (PREA Specialist)

AUDITOR CERTIFICATION

I certify that:

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

Auditor Instructions:

Type your full name in the text box below for Auditor Signature. This will function as your official electronic signature. Auditors must deliver their final report to the PREA Resource Center as a searchable PDF format to ensure accessibility to people with disabilities. Save this report document into a PDF format prior to

submission.¹ Auditors are not permitted to submit audit reports that have been scanned.² See the PREA Auditor Handbook for a full discussion of audit report formatting requirements.

Jillian Shane

September 27, 2018

Jillian Shane

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

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