

**PREA AUDIT REPORT**     Interim     Final  
**ADULT PRISONS & JAILS**

**Date of report:** August 31, 2016

<b>Auditor Information</b>			
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<b>Date of facility visit:</b> March 15, 2016 thru March 17, 2016			
<b>Facility Information</b>			
<b>Facility name:</b> Montana Women's Prison			
<b>Facility physical address:</b> 701 South 27 <sup>th</sup> Street, Billings, Montana 59105			
<b>Facility mailing address:</b> <i>(if different from above)</i> <a href="#">Click here to enter text.</a>			
<b>Facility telephone number:</b> 406-547-5100			
<b>The facility is:</b>	<input type="checkbox"/> Federal	<input checked="" type="checkbox"/> State	<input type="checkbox"/> County
	<input type="checkbox"/> Military	<input type="checkbox"/> Municipal	<input type="checkbox"/> Private for profit
	<input type="checkbox"/> Private not for profit		
<b>Facility type:</b>	<input checked="" type="checkbox"/> Prison	<input type="checkbox"/> Jail	
<b>Name of facility's Chief Executive Officer:</b> Joan Daly			
<b>Number of staff assigned to the facility in the last 12 months:</b> 84			
<b>Designed facility capacity:</b> 206			
<b>Current population of facility:</b> 206			
<b>Facility security levels/inmate custody levels:</b> All Security Levels to include Maximum, ADSEG, Close, Medium, Minimum			
<b>Age range of the population:</b> 18-69			
<b>Name of PREA Compliance Manager:</b> Charlotte Dolezal		<b>Title:</b> Correctional Manager	
<b>Email address:</b> cdolezal@mt.gov		<b>Telephone number:</b> 406-247-5159	
<b>Agency Information</b>			
<b>Name of agency:</b> Montana Department of Corrections			
<b>Governing authority or parent agency:</b> <i>(if applicable)</i> State of Montana			
<b>Physical address:</b> 5 South Last Chance Gulch, Helena, Montana 59620-1301			
<b>Mailing address:</b> <i>(if different from above)</i> P.O. Box 201301 Helena, Montana 59620-1301			
<b>Telephone number:</b> 406-444-3930			
<b>Agency Chief Executive Officer</b>			
<b>Name:</b> Mike Batista		<b>Title:</b> Director	
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<b>Agency-Wide PREA Coordinator</b>			
<b>Name:</b> Andrew Jess		<b>Title:</b> Montana PREA Coordinator	
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## AUDIT FINDINGS

### NARRATIVE

The Prison Rape Elimination Act (PREA) on-site audit of the Montana Women's Prison (MWP) in Billings, Montana was conducted beginning March 15, 2016 and ending March 17, 2016. Robert C. Real, a U.S. Department of Justice Certified PREA Auditor for Adult Prisons and Jails. Pre-Audit preparation included a thorough review of all documentation and materials submitted by the Facility's PREA Compliance Manager, via flash drive, to include data from the Pre-Audit Questionnaire. The documentation reviewed included agency policies, procedures, forms, educational materials, training curriculum, organizational charts, posters, brochures, inmate handbook and other PREA related materials that was provided to demonstrate compliance with the PREA standards. A review of the agency's website was also conducted to evaluate compliance with the federal PREA standards.

Six weeks prior to the on-site audit, notification was posted throughout the facility with the auditor's contact information for confidential communications with staff and inmates. Documentation was forwarded to the auditor via email demonstrating the notice was posted within the prescribed timeline required by the Department of Justice.

During the two and one half days of the on-site audit, the auditor was provided with office space where confidential interviews of facility staff, contractors, volunteers and inmates were conducted. The auditor routed the facility and observed the facility architecture, location of cameras and mirrors, staff supervision of inmates, and housing unit layouts to include shower and toilet areas. During the tour the auditor reviewed the placement of PREA posters and other PREA related materials posted throughout the facility. The auditor spoke informally with staff and inmates as the tour was conducted and found both to be receptive and respectful.

As part of the facility audit, the auditor interviewed Mr. Kurt Aughney from the Agency Director's Office; Warden Joan Daly; Mr. Andrew Jess, Agency PREA Compliance Coordinator; Ms. Charlotte Dolezal, Facility PREA Compliance Manager; the Hearings Officer; Investigations Manager; Mental Health Manager; Health Services Manager; Agency Contract Administrator; Human Resources.

The auditor interviewed 15 random inmates representing each of the housing units. Twelve random staff to include six from each of the two shifts (6:00 AM to 6:00 PM; and 6:00 PM to 6:00 AM). In addition the auditor conducted 8 specialized inmate interviews to include: Disabled and limited English proficient inmates; Transgender and intersex inmates, gay, lesbian and bisexual inmates; Inmates who had reported a sexual abuse; and inmates who disclosed sexual victimization during risk screening. The auditor also conducted interviews of Staff who supervise inmates in segregated housing, Intermediate and higher level staff, Staff charged with monitoring for retaliation, Contractors, volunteers, Intake staff, and staff who have or would act as first responders.

In addition to the interviews conducted, the auditor reviewed investigative files, medical records, training records, Training course materials, and other related materials that demonstrated MWP's efforts to comply with the Prison Rape Elimination Act.

During the on-site visit, the audit team was treated with great respect and was given full access to the facility, staff and inmates in order to verify their efforts. It was very evident that from the Central Office to the facility leadership, that PREA compliance was and is a high priority. The auditor was overall impressed with the facility's preparation for the audit and level of commitment shown by staff at the facility to provide an environment free of sexual abuse, sexual harassment and retaliation.

## DESCRIPTION OF FACILITY CHARACTERISTICS

Montana Women's Prison in Billings is a 194-bed secure facility that operates consistently at or over capacity, with approximately 200 female felony inmates. The state-run facility provides a secure environment that emphasizes accountability, productivity and personal growth. Montana Women's Prison has a staff of about 92, including 20 contract personnel.

### Recovery/ Reentry Program

The Montana Women's Prison provides an environment that is designed to improve outcomes for women's recovery and reentry into Montana communities, by emphasizing personal accountability, public safety and restorative justice for crime victims.

The federal Substance Abuse and Mental Health Services Administration (SAMSA) defines "recovery" as a process of change through which individuals improve their health and wellness, live a self-directed life, and strive to reach their full potential. Montana Women's Prison inmates define recovery and reentry more personally:

"We strive for positive change, personal growth and accountability in recovery. We embrace hope, healthy relationships, and faith in ourselves as we re-enter our communities as strong, respectful, responsible women."

The state-run prison's operation utilizes a recovery/reentry model as part of the process for preparing women for reentry into their communities. Programs that are available to the women are medical and dental services, mental health, chemical dependency, educational, work and parenting.

More than 90 percent of all inmates at the Women's Prison are involved in educational, vocational and recovery/reentry programming.

The prison strives to promote child-parent bonding and development of parenting skills in preparation for family reunification. Special family "Kids' Day" events occur once a month under the supervision of parenting staff to promote positive relationships.

The prison's educational programs include classes to obtain high school-equivalency diplomas, college preparation classes, and courses to learn computer, personal and job-related skills.

In partnership with the prison, correctional enterprises offer inmates vocational training opportunities through the prison industries program. Industries such as garment and apparel print-screening, direct-printing, design work and embroidery, as well as assembling hygiene kits for prisoners. The prison paws program was started in 2004. It is a canine training program which allows inmates an opportunity to learn new skills and improve self-esteem while socializing canines, and teaching them basic manners so the canines are better community members. A garden project, launched in 2012, has enhanced the nutritional variety available to inmates and when an abundance of produce is available donations are made to the community food bank. The women who work in the garden and greenhouse can earn their master gardener certification in addition to life-skills and technical on-the-job training in greenhouse operations.

The programs offered by the prison are enhanced by community partnerships and the large number of volunteers who donate time to bring in faith-based, physical wellbeing/prevention, substance abuse treatment and education, healthy relationships, cognitive/behavioral strategies and life skills, creative arts programming, and victim awareness programs and activities. Victims who participate in restorative justice programs such as a victim awareness panel often experience healing; and it strengthens the inmate's accountability and understanding of the harm they created through their crime while promoting a social bond to the community. These programs encourage change in inmates and provide ties to community, while allowing them to give back in a positive and productive way through interactions and community service projects.

The Billings Area Reentry Task Force is a collaborative partnership made up of community stakeholders; the Montana Department of Labor, Montana State University Billings, Montana Department of Corrections, other government entities, faith and community-based organizations and other interested local parties who promote the removal of barriers which may impede successful offender re-entry. This holistic approach starts at the point of contact with the criminal justice system focusing on employment, relationships and family, health services, alcohol and other drug treatment, and housing needs during an inmate's transition from prison to the community.

## **SUMMARY OF AUDIT FINDINGS**

The overall tone of the facility was very positive. All staff and inmates interviewed were cooperative and overall were satisfied with the facility. The overall majority of staff interviewed had a good working knowledge of PREA policies and practices that to contribute to an environment free of sexual abuse, sexual harassment and retaliation.

The auditor was very impressed with the observed interactions between staff and inmate.

Number of standards exceeded: 0

Number of standards met: 43

Number of standards not met: 0

Number of standards not applicable: 0

### **Standard 115.11 Zero tolerance of sexual abuse and sexual harassment; PREA Coordinator**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

The MWP and the Montana Department of Corrections has demonstrated compliance with all elements of this standard. The MWP and the Montana Department of Corrections adheres to DOC Policy 1.1.17, Prison Rape Elimination Act of 2003 (PREA), which states the Department of Corrections has a 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 (PREA). The PREA policy further outlines Prevention and Intervention, Investigative Protocols, and describes how to respond to such conduct.

The department has designated Mr. Andy Jess as the Agency PREA Compliance Specialist (PREA Compliance Coordinator) who reports directly to the Quality Assurance Director located out of the Agency Director’s Office. During an interview with Mr. Jess, he stated that his sole duties are related to ensuring the department is compliant with PREA standards and that he has sufficient time and authority to develop, implement and oversee agency efforts to comply with the PREA standards in all of the agency facilities.

The Montana Women’s Prison has designated Ms. Charlotte Dolezal, Correctional Manager, as the Facility PREA Compliance Manager. During an interview with Ms. Dolezal, she stated that she has sufficient time and the authority to coordinate the facility’s efforts to comply with PREA standards.

During a tour of the facility, the auditor observed signs clearly posted throughout the facility acknowledging the agencies zero tolerance policy towards sexual abuse and sexual harassment.

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

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

The Montana Women’s Prison and the Montana Department of Corrections did not demonstrate compliance with all elements of this standard which state, “A public agency that contracts for the confinement of its inmates with private agencies, or other entities, including other government agencies, shall include in any new contract or contract renewal the entity’s obligation to adopt and comply with the PREA standards.

The Montana Department of Corrections reported it contracts with three external agencies for confinement of inmates to include two county jails and one private prison. During an interview with the Agency’s Contract Administrator, it was reported each contract is reviewed and updated every two years. She stated that on private facility the agency contracts with for confinement submitted to a PREA Audit and was found to be in full compliance in 2015. The Montana Department of Corrections employs contract monitors, whose sole responsibility is to monitor confinement contracts.

As part of the documentation provided, there were no contracts for the auditor to review.

**Corrective Action:** Provide for the auditor's review, copies of contracts with agencies that are currently housing inmates for the Montana Department of Corrections. Requested information regarding facilities that contract for the confinement of inmates that have submitted to a PREA Audit.

**Action Taken:** Mr. Andy Jess, Agency PREA Coordinator, provided documentation demonstrating compliance with all elements of this standard. The Montana Department of Corrections contracts with three external agencies for the confinement of inmates to include Dawson County, Cascade County and Crossroads Correctional Center. Signed contracts for Dawson County and Crossroads Correctional Center were provided for the auditor's review. The contract with Cascade County, that is awaiting final signature, was also included for the auditor's review. All met the requirements of the standard by including PREA language that required the contractor to adopt and comply with the PREA standards. The following language included stated the following:

COUNTY/Contractor shall comply with 42 U.S.C.A. § 15601 and DEPARTMENT/MSP Prison Rape Elimination Policies and Procedures 1.3.14 to include incident reporting. COUNTY/Contractor shall establish a zero tolerance policy to incidents of sexual assault/rape or sexual misconduct.

DEPARTMENT will provide PREA instructor training classes. COUNTY/Contractor shall be required to send instructor candidates to the instructor PREA training program. COUNTY/Contractor shall require all staff, volunteers, contract staff to attend the basic PREA training and such on-going annual training as may be required by law, DEPARTMENT and COUNTY/Contractor policy. COUNTY/Contractor shall require first-line responders or staff who may be involved in incidents of sexual assault/rape or sexual misconduct to attend specialized PREA training. COUNTY/Contractor shall provide proof of compliance.

COUNTY/Contractor shall ensure that during orientation offenders receive Facility orientation and orientation material regarding PREA. Offenders shall be required to sign an acknowledgement of having received the information.

Whenever possible, COUNTY/Contractor will send inmates suspected of having been sexually assaulted / raped to a hospital. COUNTY/Contractor shall separate the perpetrator and victim. When an Offender is suspected or has been sexually assaulted/raped or been a victim of sexual misconduct, COUNTY/Contractor shall provide mental health treatment/counseling to the Offender.

Information regarding sexual predators or victims will be forwarded to the Contract Placement Bureau when the identified Offender is transferred from one facility to another. COUNTY/Contractor shall keep that information confidential. COUNTY/Contractor shall report all incidents or suspected incidents of staff misconduct to DEPARTMENTS' PREA unit and Contract Placement Bureau, as well as, all reportable incidents of sexual assault/rape, sexual misconduct or sexual acts involving inmates.

A PREA Audit: Auditor's Summary Report was provided for the Crossroads Correctional Center for the auditor's review. The report for a PREA Audit completed November 13, 2015 demonstrated 100% compliance with Federal PREA Standards.

In a memorandum dated August 31, 2016 it stated that the contract between the Montana Department of Corrections and Cascade County had reached an agreement that included the above language and that they were awaiting final signature which will not occur until after the corrective action period. Because both parties are satisfied with the content of the final version of the contract, that the PREA compliant language in the contract had never been disputed, the auditor has determined that the agency complies with all the elements of this standard.

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

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

MWP and the Montana Department of Corrections have demonstrated compliance with all elements of this standard. MWP has a staffing PREA Audit Report

plan that takes into consideration the following: Generally accepted detention and correctional practices; the facility's architecture to include blind spots and areas where staff or inmates may be in isolated areas; the composition of the inmate population; number and placement of supervisory staff; occurrence of programs on specific shifts; applicable State and local laws, regulations and standards; and the prevalence of substantiated and unsubstantiated incidents of sexual abuse. There were no incidents of judicial findings of inadequacy or any finding of inadequacy from internal or external oversight bodies.

During the audit period, there were no reported incidents where deviations of the staffing plan occurred.

The MWP has an impressive camera surveillance system that was thoughtfully designed with the primary emphasis being the prevention and detection of sexual abuse. The system is comprised of many cameras located throughout the facility and is actively monitored in the facility's main control. These cameras are monitored twenty four hours a day, seven days a week. The video retention is 180 days.

Each year the Agency PREA Compliance Specialist (PREA Compliance Coordinator) meets with each facility and conducts an annual Staffing Plan Review with an emphasis on the Prison Rape Elimination Act. Copies of the staffing plan review for MWP were provided for years 2015 and 2016.

DOC Policy 1.1.17, Prison Rape Elimination Act of 2003 (PREA), states that administrators are required have intermediate level and higher level staff conduct announced rounds to identify and deter staff sexual abuse and sexual harassment. While touring the facility, the auditor observed announced rounds being conducted throughout the facility. During interviews of staff, they acknowledged that supervisory staff conducts announced rounds on a regular basis. The facility utilizes a round tracking system that documents all rounds conducted by staff to include supervisory staff.

#### **Standard 115.14 Youthful inmates**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

MWP does not and has not housed youthful offenders under the age of 18 years of age in the past twelve months and stated that it hadn't occurred in several years. MDOC Policy DOC 4.6.9 – Placement and Reporting of Youth with Adult Sentences stated that youthful inmates under the age of 16 will be placed in a youthful facility. The policy does allow for inmates with adult sentences over the age of 16 to be placed in an adult prison.

Since there were no documented incidents of youthful offenders being housed at MWP, the auditor found this facility to be in compliance with this standard.

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

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

**Auditor discussion, including the evidence relied upon in making the compliance or non-compliance**

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

MWP demonstrated compliance with all elements of this standard. MWP does not conduct cross gender strip searches or cross gender visual body cavity searches.

DOC Policy 3.1.17b, Offender Pat/Strip Search, states that females must conduct searches of females except in emergency situations when a search must be conducted for the safety and/or security of the facility and there is no female to conduct the search. MWP has made every effort to ensure that female staff is available on each shift. Two months prior to the audit, MWP had completed a targeted hiring of female staff to help ensure female staff was available on all shifts. In the event that female staff was not available, MWP has entered into an agreement with the Billings Montana Police Department who has agreed to send a female officer to the facility if needed.

The curriculum for Cross Gender Supervision training was provided as documentation that stated that the facility shall not conduct cross-gender unclothed searches or cross-gender visual body cavity searches except in exigent circumstances or when performed by medical practitioners. At the time of the on-site audit, there was twelve random staff interviewed. All acknowledged that cross gender pat downs and cross gender visual body cavity searches are not conducted except in exigent circumstances. Of the staff interviewed, all stated that they were not aware of this ever occurring. Additionally, all random staff interviewed knew that a transgender or intersex inmate could not be searched for the purpose of determining genital status. Within the audit period, there were no identified transgender or intersex offenders assigned to the facility. During interviews of staff, they were able to describe how an appropriate pat search could be conducted of transgender and intersex offenders if required. The auditor was provided a copy of the training curriculum provided by the National PREA Resource Center, titled, Guidance in Cross-Gender and Transgender Pat Searches that was used in training staff.

MWP has strict policies and procedures that allow for inmates to shower, perform bodily functions and change clothing without non-medical staff of the opposite gender viewing their breasts, buttocks, or genitalia except in exigent circumstances or when such viewing is incidental to routine cell checks. At the time of the on-site audit, it was noted that the facility was designed to allow each inmate to shower separately. Shower curtains were provided that prevented staff’s ability to ensure there was only one inmate in the shower at one time. When this concern was brought forward, actions were taken to immediately shorten the curtains allowing inmates to be observed from the knee down. During fifteen random inmate interviews, all stated that they were never naked in full view of any staff, except when submitting to a visual body cavity search; generally when attending visiting.

The cells were designed to house four or five inmates. Each cell was issued a curtain that was to be used anytime an inmate was in a state of undress. While this is not out of compliance, many of the curtains were being misused and left up preventing staff from adequately checking cells.

MWP has a policy of requiring staff of the opposite gender to announce their presence when enter an inmate housing area. During the tour of the facility, the auditor observed the opposite gender announcements being made when necessary.

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

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

MWP has not demonstrated compliance with elements of this standard. MWP provided DOC Policy 1.1.17, Prison Rape Elimination Act of 2003 (PREA), which states the facility will provide inmate education in formats accessible to all inmates, including those who are limited English proficient, deaf, visually impaired, or otherwise disabled, as well as to inmates who have limited reading skills.

Training curriculum was provided that outlined the Americans with Disabilities Act (ADA) requirements. This training outlined how the PREA Audit Report



facility provides reasonable accommodations to inmates with physical or mental impairment, including the use of interpreters and TTY phones.

No documentation was provided demonstrating any accommodation had been made or steps taken to ensure that those who were limited English proficient, deaf, visually impaired, or otherwise disabled; including intellectual, psychiatric or speech disability, had equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment. It should be noted that at the time of the on-site audit, there were no inmates identified that met this criteria.

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 except 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. During interviews of random staff, the majority were aware that inmate interpreters could not be used during PREA related investigations and that contracted interpreter services would be utilized if needed. At the time of the audit, there were no inmates identified that were not English proficient.

**Corrective Action:** Provide evidence to the auditor demonstrating that steps have been taken to provide equal access to efforts to prevent, detect, and respond to sexual abuse and sexual harassment. Provide copies of informational materials that would be provided to those who were limited English proficient or who were otherwise disabled to include those with intellectual, psychiatric or speech disabilities.

**Action Taken:** Mr. Andy Jess, Agency PREA Coordinator, provided a copy of the contract between the Montana Department of Corrections and Cyacom International, Inc. to provide telephonic interpretation services, certified medical interpretation and braille transcription services. Languages include but are not limited to Spanish, Russian, German, French, Montana Native American Tribes, Mandarin and Arabic. These services are further provided to agencies contracted for the confinement of inmates.

Documentation was provided demonstrating the inclusion of language to MWP Policy 1.1.17, Prison Rape Elimination Act of 2003 (PREA), which states the facility will provide inmate education in formats accessible to all inmates, including those who are limited English proficient, deaf, visually impaired, or otherwise disabled, as well as to inmates who have limited reading skills. A language help line is available for limited English speaking and deaf inmates.

A copy of an inmate brochure titled, "Ending Silence, demanding safety from sexual abuse" was provided for the auditor's review.

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

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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MWP has demonstrated compliance with all elements of this standard. During an interview with the Human Resources Manager, it was reported that 21 persons were hired who may have contact with inmates. MDOC Policy 1.3.2, Performance and Conduct, 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. A review of hiring files demonstrated background investigations/records checks were completed on all staff, contractors, volunteers and visitors prior to being allowed access to the facility. Background investigations are conducted on all staff every five years and/or upon promotion, whichever is sooner.

MDOC Policy 1.3.2, Performance and Conduct outline an affirmative duty to disclose criminal conduct.

The Human Resources Manager stated during an interview that any incident of sexual harassment would be considered prior to hiring or promoting staff or enlisting the services of any contractor or anyone who would have contact with inmates.

### Standard 115.18 Upgrades to facilities and technologies

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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MWP demonstrated compliance with all elements of this standard. MWP recently updated its camera system by installing fifteen cameras throughout the facility, with plans to add an additional ten. The major emphasis was the prevention and detection of sexual abuse. Other than the camera system, no other major improvements or additions have been made to the facility other than an expansion to Unit H with the addition of four additional inmate beds.

During interviews with the Warden, PREA Specialist and the Director's designee (the Quality Assurance Director), all stated prior to designing, acquiring any new facility or prior to any substantial modifications of existing facilities, the agency considers architectural design, video monitoring and other technologies that assist in protecting residents from sexual abuse.

### Standard 115.21 Evidence protocol and forensic medical examinations

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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MWP has demonstrated compliance with all elements of this standard. The facility has established uniform protocols for investigating allegations of sexual abuse that maximized the potential for obtaining usable physical evidence for administrative and criminal prosecutions as outlined in DOC Policy 3.1.28, Crime Scene and Physical Evidence Preservation. DOC 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 assault. Services will include, but are not limited to: If the incident took place within 72 hours, MWP medical staff will transport the inmate to an outside medical provider for additional assessment of potential sexual assault; if a Sexual Assault Evidence Collection Kit is used the Office of Investigations or Law Enforcement Agency of Jurisdiction (LEAJ) will take custody of the evidence.

DOC Policy 1.1.17, Prison Rape Elimination Act of 2003 (PREA) outlines first responder duties that include 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....

During interviews of random staff, the majority were aware of what actions they would take if they were the first to become aware that a potential sexual abuse had occurred and they were the first to respond.

The auditor interviewed the Investigations Manager, who is responsible for ensuring all administrative investigations to include PREA

related investigations are completed. He completed specialized training for PREA investigations in a confinement setting that included techniques for interviewing sexual abuse victims, proper use of Miranda and Garrity warnings, sexual abuse evidence collection in a confinement setting, and the criteria and evidence required to substantiate cases for administrative action or to be referred for prosecution.

MWP has an agreement with the Billings Montana Police Department who is the primary investigative agency for criminal allegations. If a report were received that sexual abuse had potentially occurred, the Billings Police Department would be contacted and would be responsible for all evidence collection at the facility. All staff interviewed could describe what actions would be taken to protect evidence for investigators.

All criminal sexual abuse investigations are referred to the Billings Montana Policy Department. MWP stated that during this audit reporting period they had not had an incident of sexual abuse that required an offender to be taken to the hospital for a forensic medical examination or contact with a victim advocate.

The local medical center provides a forensic medical exam by a SANE and a test for sexually transmitted diseases. Provided with documentation was the Forensic Medical Exam Procedure for transportation staff and DOC Health Care staff that provide for maximizing potential for obtaining usable physical evidence.

Staff has been trained in evidence collection and preservation to maximize the potential of collecting usable evidence, which they were able to articulate during interviews onsite.

MWP has an agreement with the YWCA to field calls from offenders for advocacy services. A contract with the YWCA and Montana Department of Corrections indicates that YWCA will provide services to survivors of sexual abuse by ensuring response to the hospital during a SANE exam, presence during all investigatory interviews and legal proceedings and will provide emotional support, crises intervention, information and referrals.

During tours of the facility posters for advocacy services with contact information for the YWCA were in living units and other areas.

During interviews some inmates were aware of this service and some were not. The information is also available to inmates during the orientation process.

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

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

MWP demonstrated compliance with all elements of this standard. DOC Policy 1.1.17, Prison Rape Elimination Act of 2003(PREA), states Department employees and service providers will report immediately any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in a facility or program. While MWP does not house youthful offenders, the policy requires any allegation of sexual abuse involving a victim under the age of 18 to be reported to the Department of Public Health and Human Services in accordance with 41-3-201, MCA. Incidents of sexual abuse and sexual harassment will be reported simultaneously to the investigating law enforcement agency.

In accordance with DOC Policy 3.1.19, Investigations, states that 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 Policy 3.1.19, Investigations, outlines the general requirement that all criminal investigations are to be referred to an investigator

with legal authority to conduct the investigation. The policy is available on the Agency's website at: [http://cor.mt.gov/Portals/104/Resources/Policy/chapter3/3-1-19%2003\\_11\\_15.pdf](http://cor.mt.gov/Portals/104/Resources/Policy/chapter3/3-1-19%2003_11_15.pdf). A review of the Agencies website demonstrated a requirement for all staff to report sexual abuse. Further it stated that disciplinary action, including termination, may face a department employee or volunteer who fails to report an allegation of sexual misconduct, or coerces or threatens another person to submit inaccurate, incomplete, or untruthful information with the intent to alter a report. The department takes very seriously its PREA responsibilities in order to ensure public safety, secure correctional facilities and a safe environment for all offenders. This policy requires that allegations of sexual abuse and sexual harassment are referred for an administrative or criminal investigation.

An allegation of sexual harassment is only referred for a criminal investigation if it meets a criminal standard. If it does not meet, then it is referred to the facility investigator. The policy is available on the agency website.

Interviews with staff indicated they knew that all allegations must be reported and referred for investigation.

### **Standard 115.31 Employee training**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

The MWP demonstrated compliance with all elements of this standard. 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 will be repeated and documented annually. A review of the lesson plan, supporting training materials and videos demonstrated that all ten criteria outlined in the PREA Standard were covered. The training included topics that were tailored for a female facility that included information on cross gender pat searches, cross gender supervision, and maintaining appropriate boundaries.

Copies of training rosters were provided demonstrating that all staff had completed the training and signed off on a PREA acknowledgment form. MDOC 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. This year the refresher training was focused specifically on how to effectively and professionally communicate with LGBTI inmates.

During random interviews of fifteen staff, all acknowledged receiving the training and could describe their responsibilities.

### **Standard 115.32 Volunteer and contractor training**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

MWP demonstrated compliance with all elements of this standard. MDOC Policy 1.1.17, Prison Rape Elimination Act of 2003 (PREA) states the definition of department employee also covers volunteers; therefore, volunteers must adhere to the same training requirements. MWP has 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.

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). On page 12 of the Volunteer Handbook, describes the Prison Rape Elimination Act and their responsibilities.

During interviews with volunteers and contractors, all acknowledged that they had received PREA training and knew of their responsibility to report all allegations of sexual abuse and sexual harassment.

A copy of the volunteer/contractor lesson plan was provided for the auditor’s review with a spread sheet documenting the completion of the training.

### **Standard 115.33 Inmate education**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

MWP demonstrated compliance with the elements of this standard. The MWP PREA Audit Questionnaire reports that 193 inmates have been admitted to their facility in the previous twelve months. Each inmate upon admission immediately receives information regarding the agency’s zero tolerance policy regarding sexual abuse, sexual harassment and how to report incidents or suspicions of sexual abuse or sexual harassment. Of the fifteen random inmate interviews conducted, all stated that they received information immediately upon receipt at the facility.

DOC Policy 1.1.17, Prison Rape Elimination Act of 2003 (PREA), states that within 72 hours of inmate intake, staff will communicate to inmates, verbally and in writing, information about the Department’s zero tolerance of sexual abuse and sexual harassment by providing each inmate with a copy of the “What you should know about sexual abuse and assault pamphlet.

While conducting the tour of the facility, the auditor observed PREA posters and other educational materials prominently posted throughout the facility.

Provided for the auditor’s review were a copy of the orientation provided to inmates and the PREA Intake Brochure issued to each inmates upon arrival at the facility titled, What you should know about sexual abuse and assault. Topics covered in the brochure are: What is sexual assault; how to avoid rape; what do you do if you are sexually assaulted.

MDOC Policy 1.1.17, Prison Rape Elimination Act of 2003 (PREA) states that 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. MWP had no identified inmates who were not proficient in English but they were able to describe what actions they would take to ensure equal access to PREA information and protections from sexual abuse and sexual

harassment.

Auditor interviews with staff assigned to work Intake, reported that the PREA information is provided to inmates the same day they arrive at the facility.

### **Standard 115.34 Specialized training: Investigations**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

MWP and the Montana Department of Corrections demonstrated compliance with some elements of this standard. DOC Policy 3.1.19, Investigations, states that specialized training must be completed prior to conducting sexual assault or other specialty investigations.

In addition to completing all general training provided to employees regarding PREA, staff assigned to conduct administrative or criminal PREA investigations had completed an online course provided by the National Institute of Corrections titled, Prison Rape Elimination Act (PREA) Investigating Sexual Abuse in a Confinement Setting. The training course included 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. Documentation was not provided demonstrating that all assigned investigators had completed this training.

**Corrective Action:** Provide for the auditor's review, documentation demonstrating that those assigned to conduct PREA investigations had completed the specialized training.

**Action taken:** Mr. Andy Jess, Agency PREA Coordinator, provided for the auditor's review documentation for twenty-three staff who had received specialized training for conducting PREA investigations in a confinement setting. The curriculum used was a National Institute of Correction's training course, PREA: Investigating Sexual Abuse in a Confinement Setting.

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

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

MWP and the Montana Department of Corrections demonstrated compliance with all elements of this standard. 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. Additionally, all full time and part time medical and mental health care receive specialized training for PREA Medical and Mental Care Standards with includes the following additional training: Detecting and assessing signs of sexual abuse and harassment; Reporting and the PREA standards; Effective and professional responses; and the medical forensic examination and forensic evidence preservation.

MWP stated that facility medical staff do not conduct forensic examinations. During auditor interviews with medical staff, they advised that in the event a SAFE or SANE forensic exam were required, the inmate would be transported to an area medical center where the exam would be conducted.

Training rosters were provided for the auditor's review demonstrating that all medical and mental health staff had received specialized training that complies with section (a) of this standard. This was supported during interviews with medical and mental health staff.

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

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

MWP had demonstrated compliance with all elements of this standard. DOC Policy 1.1.17, Prison Rape Elimination Act of 2003 (PREA), states that MWP will identify, assess, and manage inmate with special needs, including those who are potentially sexually vulnerable or aggressive, to provide safe housing, adequate protection, and programmatic resources to meet their needs in accordance with DOC Policy 4.2.1 Classification, 4.2.2 Special Needs Offenders and 4.2.3 Unit Management.

The PREA Standard requires that all inmates be assessed during an intake screening and upon transfer to another facility for their risk of being sexually abused by other inmates or sexually abusive toward other inmates. MWP assigns and ensures that an initial screening is completed upon intake by nursing staff, never exceeding the 72 hour requirement. The PREA Compliance Manager then ensures that a follow up screening is completed within 30 days of intake. A copy of review forms were provided for the auditor's review. During auditor interviews with the PREA Compliance Manager (Staff who preform screening for risk of victimization and abusiveness) and random inmates, it was clear that the reviews were being completed within the prescribed timelines.

The auditor reviewed completed PREA: Risk Assessment – Sexual Predator/ Vulnerability PREA Screening Checklists to ensure that all the required criteria was being considered to include the following: Possible Victim factors include: Former victim of prison rape or sexual assault within the past ten years; Youthful age (under 25); Elderly (65 or older); Small physic stature (5'0" or less and/or 95lbs or less); Developmental disability/mental health history/physical disability; First time incarcerated; Gay/lesbian/bisexual/transgender/intersex/gender nonconforming; History of any sexual abuse with the past ten years; History of correctional facility consensual sex within the past ten years; Placement in Special Management within the past ten years; Criminal history is exclusively non-violent; Does inmate perceive self as a potential victim of prison rape or sexual assault.

Possible Predator Factors include: Institutional predatory sexual behavior with the past ten years; current or prior conviction for rape, child abuse or neglect within the past ten years; Sexual abuse or sexual assault toward others or domestic violence with the past ten years; gang affiliation; Institutional strong –arming / assaults within the past ten years; Institutional sexual taunting toward staff or offenders within the past ten years.

During auditor interviews of the facility PREA Compliance Manager and random inmates, an inmate's risk level is being reassessed anytime it is warranted to include after incidents of reported sexual abuse or when information is received indicating an inmate may be at increased risk of sexual victimization or abusiveness.

The auditor confirmed during interviews of the PREA Compliance Manager and Facility Warden that inmates are not disciplined for failing to disclose information during the screening. Also it is noted that information obtained during the screenings are only shared with those staff with a need to know.

The PREA Standard requires that inmates being detained solely for immigration purposes be considered as part of the risk screening. The Montana Department of Corrections only takes custody of inmates who have been criminally sentenced and would not hold inmates solely for immigration purposes. As such, it is not considered during their screening process.

## Standard 115.42 Use of screening information

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

MWP had demonstrated compliance with most elements of this standard. DOC Policy 1.1.17, Prison Rape Elimination Act of 2003 (PREA) states staff will conduct risk assessments on all inmates as part of the intake process. This assessment is to help identify those with a significant vulnerability to sexual victimization and or tendencies to act out with sexually aggressive behavior. It should be used as an aid in the overall classification and management system. PREA initial risk assessment screening occurs within the first 72 hours of intake; and reassessment will occur within 30 days of intake into the facility and when warranted thereafter based on any new information.

MWP and the Montana Department of Corrections uses information from the screening to identify inmates who may be at risk for sexual victimization and those that are at risk for sexual abusiveness. This information is not only tracked on a facility spreadsheet maintained by MWP, but the information is maintained on the Department's Offender Management Information System (OMIS). Housing Assignments are made utilizing this information to ensure that inmates at risk of victimization are not housed with inmates at risk for being sexually abusive.

During an interview with the Facility's PREA Compliance Manager (PCM), it was stated that this information is mostly used to determine housing assignments and not readily considered when making work, education or program assignments because it is felt that there is adequate supervision to prevent sexual abuse. Also during this interview, the PCM stated that if special considerations were required, steps would be taken to ensure the safety of the inmate population.

At the time of the audit, there were no identified transgender or intersex inmates being housed at the facility. Thus there were no records to review to demonstrate that transgender and intersex inmates were being reviewed twice a year. The Agency PREA Compliance Coordinator and the Facility PCM did understand the requirement and explained that they would comply if transgender or intersex inmates were assigned to the facility. Both further stated that transgender and intersex inmates own views would be taken into consideration concerning their safety.

A review of the facility architecture demonstrated that all inmates, including any that would be transgender or intersex, shower separately from other inmates.

After completing a facility tour and conducting interviews with the Agency PREA Coordinator, the Facility PCM and two inmates identified as being gay, the facility demonstrated that it did not place lesbian, gay, bisexual, transgender, or intersex inmates in any dedicated unit or wing. Rather they were housed among the general population. There were no identified consent decrees or other legal settlement or judgment that would require differently.

**Corrective Action:** Demonstrate to the auditor how the information obtained during the risk screening is considered when making work, education and other programming assignments.

**Action taken:** Mr. Andy Jess, Agency PREA Coordinator, provided updated language in MDOC Policy 1.1.17, Prison Rape Elimination Act of 2003 (PREA) which states Employees responsible for housing, work assignments, education and programming assignments will be notified when inmates are identified as at risk for potential sexual victimization and/or sexually aggressive behavior. Housing assignments will take into account risk factors. At risk inmates may be temporarily held in segregated housing, for up to 24 hours, when other housing alternatives are unavailable.

Documentation was provided from the Facility Correctional Manager advising that a risk assessment is completed within 72 hours and again within 30 days. This information is used in deciding and determining housing assignments, work assignments, programming,



classes, volunteer activities, education and participation in group activities. Attached for the auditor's review was a PREA Designation Placement Guide that outlines the process that would be followed when making the above assignments.

### **Standard 115.43 Protective custody**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

MWP demonstrated compliance with all elements of this standard. 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. At the time of the audit, only one example could be provided for an inmate being placed for their own safety.

During the auditor interview with the Facility's Warden, it was obvious that she was dedicated to ensuring inmates were kept safe and that victims of sexual abuse and sexual harassment were not further traumatized by a housing assignment in administrative segregation.

Documentation was provided for the auditor's review involving staff/inmate sexual abuse that required the inmate to be placed in administrative segregation. Once the staff was removed and the threat to the inmate's safety eliminated, the victim was made whole. The entire time frame in administrative segregation was less than 72 hours.

While there was no incidents of an inmate victim being assigned to administrative segregation for longer than 72 hours, DOC Policy 1.1.17, Prison Rape Elimination Act of 2003 (PREA) requires that the facility review each inmate placed in segregated housing for protective custody purposes every 30 days.

The PREA Standard requires that inmates being placed in administrative segregation because they are at risk of sexual victimization have access to programs, privileges, and education and work opportunities to the extent possible. During auditor interviews with staff who supervise Segregated Housing and Warden Daly, they described that any inmate housed for protective custody because they were at risk of sexual victimization would not have access to programs, privileges, education or work because of the need to separate them from population until the risk could be eliminated. There were no examples of any inmates being housed for this purpose that exceeded 72 hours.

### **Standard 115.51 Inmate reporting**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

MWP demonstrated compliance with most elements of this standard. MDOC provides multiple 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) states that inmates are encouraged to report allegations of sexual abuse and sexual harassment. Inmates who are victims of or have knowledge of sexual abuse or sexual harassment should immediately report the incident by one of the following methods: report the incident to a staff member verbally or in writing, anonymously or through a third party; utilize the formal grievance procedure in accordance with MWP Procedure 3.3.3, Offender Grievance Program; use the Department approved free and confidential telephone hotline operated by an external agency; or use the Telmate inmate phone system that is sent to a Department employee. During the facility tour, the auditor observed PREA signs prominently posted throughout the facility with telephone numbers and addresses to report sexual abuse and harassment as well as how to access advocacy for those that have been the victim of sexual abuse.

During auditor interviews with random staff and inmates, all were able to describe multiple ways to report sexual abuse and sexual harassment. All interviewed knew that reports could be made verbally, in writing, anonymously and from third parties. Staff knew that all received reports would be documented immediately and forwarded to agency officials.

MWP has entered into an agreement with the YWCA of Missoula Montana to provide a method for inmates to provide reports of sexual abuse and sexual harassment. YWCA of Missoula Montana then agrees to forward reports of sexual abuse and sexual harassment to agency officials, allowing the inmate to remain anonymous upon request. There were no incidents of inmates being detained solely for civil immigration purposes.

### **Standard 115.52 Exhaustion of administrative remedies**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

MWP and the Montana Department of Corrections do not comply with elements of this standard. MWP and the Montana Department of Corrections have outlined a policy that provides administrative procedures for inmates to address inmate grievances regarding sexual abuse. MWP Policy 3.3.3, Offender Grievance Program outlines the emergency grievances states that inmates alleging actual, or risk of, immediate physical harm may file a formal emergency grievance. Inmates may report staff on inmate and inmate on inmate sexual misconduct using the emergency grievance process in accordance with DOC Policies 1.3.12, Staff Association and Conduct with Offenders, and 1.1.17, Prison Rape Elimination Act of 2003 (PREA) which state that is no time limit on filing a grievance concerning sexual misconduct. The inmate will specify on the Inmate/Offender Grievance form the exact nature of the issue and why the issue is considered an emergency. The emergency grievance is to be submitted to the facility grievance coordinator or in the absence, the shift lieutenant. The Grievance Policy does not require an inmate to use any informal grievance process, or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse.

Upon receipt of the emergency grievance, the Grievance Coordinator or shift Lieutenant will determine whether the issue is a legitimate emergency and will forward legitimate emergency grievances to the Warden or designee for processing. The Warden or designee will respond to the inmate in writing within 48 hours of receipt of the emergency grievance. The Grievance Coordinator may extend this time frame for an additional 48 hours. The inmate may appeal the Warden's response to the emergency grievance to the Department Director by submitting a completed appeal form to the Grievance Coordinator within five working days of receipt of the response. The Grievance Coordinator will promptly forward the appeal to the Director. The Director will respond to all legitimate emergency grievances in writing within 10 working days of receipt.

MWP Policy 3.3.3, Offender Grievance Program does not meet the elements of this standard. The grievance policy fails to outline a process allowing third parties, including fellow inmates, staff members, family members, attorneys, and outside advocates to assist inmates in filing requests for administrative remedies relating to allegations of sexual abuse. The PREA Standard further requires that the agency establish a process for ensuring that once an emergency grievance is received alleging an inmate is subject to a substantial risk of imminent sexual abuse, the agency shall immediately forward the grievance to a level of review at which immediate corrective action may be taken and provide a written response to the inmate within 48 hours, and issue a final agency decision within 5 calendar days.

**Corrective Action:** Demonstrate to the auditor that language has been added to the Grievance Procedure with timelines that are consistent with the PREA standard. Ensure language is included that provides for an inmates immediate protection if an inmate is at imminent risk of sexual abuse.

**Action taken:** Mr. Andy Jess, Agency PREA Coordinator, provided DOC Policy 3.3.3, Offender Grievance Program that was updated to include language that complies with all elements (b), (c), (d), (e), (f) and (g) of this standard.

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

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

MWP has demonstrated compliance with all elements of this standard. MWP has a Memorandum of Understanding between themselves and the YWCA, a community based organization in Billings, Montana. YWCA of Billings provides advocacy services to victims of sexual abuse and sexual assault and agrees to provide crisis intervention and victim advocacy services to residents in the legal and physical custody of MWP. Anytime a victim of sexual abuse is transported to a Billings Hospital for the purposes of a forensic medical exam, a rape crisis advocate will respond from the YWCA.

During auditor interviews of random inmates and interviews of two inmates who had reported sexual abuse, they were aware that services were available, but had some difficulty describing specific services. All knew where they could obtain the contact information and reported that they would be comfortable approaching staff to request access to services.

During the auditor’s tour of the facility, signs were prominently displayed throughout the facility with telephone numbers and addresses where support services could be accessed. In the inmate handbook and during orientation, inmates are advised that all phone calls subject to monitoring and recording.

While on site the auditor expressed concerns about phone conversations with advocates and reports to outside reporting agencies, recommending that these calls not be recorded. The facility took immediate action and contacted their telephone service provider and restricted these phone calls from being monitored or recorded.

The auditor was provided a copy of the Memorandum of Understanding between the Montana Women’s Prison and YWCA in Billings, Montana for review.

### **Standard 115.54 Third-party reporting**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

**Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor’s analysis and reasoning, and the auditor’s conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These**

**recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

MWP and the Montana Department of Corrections is not compliant with this standard. While all interviews and observations support that third party notifications are being received and investigated properly, the agency has not disseminated information publicly on how to report sexual abuse and sexual harassment on behalf of an inmate.

**Corrective Action:** The PREA Compliance Coordinator has agreed to add language to the agency’s website that describes how to report sexual abuse and sexual harassment on behalf of an inmate. Also need to make the agency’s PREA page more easily accessible to the public. Contact the auditor when this has been completed for their review.

**Action taken:** A link to PREA Reporting has been added to the agency’s website under the “Family & Friends” section as well as a heading for PREA Reporting on the “Family & Friends More” page. Contact information for the Agency PREA Coordinator was added to the sidebar on the PREA page.

**Standard 115.61 Staff and agency reporting duties**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

MWP has demonstrated compliance with all elements of this standard. DOC Policy 1.1.17, Prison Rape Elimination Act of 2003 (PREA), states when a staff member or service provider is informed of or is a witness to sexual abuse or sexual harassment, they will treat it as a validated claim and: separate the victim, suspect and witnesses; responding staff must request that the alleged victim not take any actions that could destroy physical evidence and notify the on duty shift lieutenant immediately; and complete an incident report concerning observations and details provided by the victim, witness or perpetrator and submit to the on duty shift lieutenant.

The PREA policy further requires that the shift lieutenant limit the distribution to appropriate staff only and will notify the PREA specialist. All auditor interviews with random staff demonstrated an understanding of their reporting responsibilities and the requirement to only share the information with staff who had a direct need to have the information to include on shift lieutenant, PREA specialist, investigators, Warden, Associate Wardens and any others who are involved addressing the incident.

Medical and Mental Health practitioners have the same reporting requirements as other 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. Auditor interviews with medical and mental health providers demonstrated that they understood their mandatory responsibility to report any sexual misconduct that occurred in a correctional or lock up facility.

Staff is aware of their responsibilities to report and have been appropriately trained. The training was documented and training rosters and course curriculum provided for the auditor’s review.

**Standard 115.62 Agency protection duties**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the

relevant review period)

- Does Not Meet Standard (requires corrective action)

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

MWP has demonstrated compliance with all elements of this standard. 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. Staff is trained regarding reporting requirements which was evidenced during auditor interviews with staff. All were able to articulate how they would report.

MDOC 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.

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 Daly, 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**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

MWP has demonstrated compliance with all elements of this standard. DOC Policy 1.1.17 , Prison Rape Elimination Act of 2003 (PREA) states if at any time a staff member is informed of an allegation of sexual abuse while an inmate was at another facility, the staff member must submit an incident report to the on duty lieutenant. The incident report will be sent to the Warden and PREA Specialist who will inform the administrator of the other facility and the Officer of Investigations of the allegation as soon as possible but no later than 72 hours after the initial report.

The auditor was provided four examples of reported incidents that had occurred at other facilities and provided documentation demonstrating that notifications had been made to the agency leadership where the alleged abuse occurred.

Auditor interviews with the Agency’s Quality Assurance Director, Warden Daly, and random staff demonstrated an agency understanding of the requirement to report allegations immediately.

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

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

MWP demonstrated compliance with all elements of this standard. DOC Policy 1.1.17, Prison Rape Elimination Act of 2003 (PREA) details steps first responders are required to take. All staff from the Warden to the random staff interviewed knew and could describe first responder responsibilities that included separating the alleged victim and abuser, requesting that the alleged victim not take any actions that could destroy physical evidence, establishing a crime scene by taking steps that would protect and preserve evidence, and completing and submitting an incident report.

Additionally, all staff interviewed knew of their responsibility to report and the requirement to maintain confidentiality by only sharing information with those with a direct need to know.

#### **Standard 115.65 Coordinated response**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

MWP has not demonstrated compliance with this standard. The PREA Standard requires the facility to develop a written institutional plan to coordinate actions taken in response to an incident of sexual abuse, among staff first responders, medical and mental health practitioners, investigators and facility leadership. MWP provided MWP Policy 3.2.14, Emergency Staffing/Job Action Plan that is used when responding to an organized job, actions, environmental conditions, epidemic and/or natural disaster. The auditor felt that this did not apply to the standard.

During and auditor interview with the facility Warden, Warden Daly was able to clearly articulate what actions would be taken as part of a coordinated response to include first responders, facility leadership, medical and mental health providers as well as agency PREA staff. I am confident that the facility would and has responded appropriately. Need to establish a written response plan.

**Corrective Action:** Provide for the auditor’s review a written institutional plan outlining a coordinated response plan that would be implemented in response to an incident of sexual abuse.

**Action taken:** Mr. Andy Jess, Agency PREA Coordinator, provided a copy of MWP Sexual assault/ Abuse Response Team Protocol that outlines duties for Staff First Responders, On-duty Lieutenants or Duty Officers, PREA Compliance Manager, On-site medical staff, Mental Health Department, Rape Crisis Advocate, and transporting staff. Documentation was provided demonstrating that included staff were notified of the coordinated response protocol.

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

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

MWP has demonstrated compliance with this standard. A review of the Collective Bargaining Agreement between Montana Federation of Women’s Prison Employees, Local #4699, MEA-MFT, AFL-CIO and the Montana Department of Corrections Women’ Prison 2013-2015 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.

During an auditor interview with the Assistant Director, he 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.

The auditor met with Human Resources and reviewed several investigative files that demonstrated that staff alleged to have engaged in sexual abuse was removed from inmate contact. Further review showed that appropriate corrective action was taken which included termination of employment.

#### **Standard 115.67 Agency protection against retaliation**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

MWP did not demonstrate compliance with this standard. MWP Policy 1.1.17 Prison Rape Elimination Act of 2003 (PREA) stated that MWP will not tolerate retaliation against parties who in good faith report sexual abuse or sexual harassment; individuals that retaliate may face disciplinary action. When sexual abuse or sexual harassment has been substantiated, individuals involved will be monitored for at least 90 days to prevent retaliatory conduct or treatment from others. Staff will be assigned by the PREA specialist to monitor retaliation use the Retaliation Monitoring Data Sheet.

The 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.

During an auditor interview with the Facility PREA Compliance Manager, who is responsible for monitoring for retaliation, she provided documentation demonstrating that retaliation monitoring had been occurring for inmates in cases where the sexual abuse or sexual harassment had been verified.

**Corrective Action:** The PREA Standard requires the agency to establish 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. The PREA policy currently limits these checks to be completed only when the allegation is verified. The language in the PREA policy needs to be changed to include monitoring for anyone who reports or cooperates with sexual abuse or sexual harassment investigations. This includes

cases that are substantiated or unsubstantiated. Further the language should include monitoring for staff.

Provide for the auditors review changes to the PREA policy and describe how staff monitoring will occur.

**Action Taken:** Mr. Andy Jess, Agency PREA Coordinator, provided documentation demonstrating language was included in MDOC Policy 1.1.17, Prison Rape Elimination Act of 2003 (PREA), stating 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.

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 have reported abuse or who were reported to have suffered sexual abuse or sexual harassment to prevent retaliation. Monitoring will continue beyond 90 days if there is a continuing need. Each facility will designate a staff member responsible for retaliation monitoring. The facility or program's obligation to monitor retaliation may be terminated if the allegation is determined to be unfounded.

MWP Procedure 1.1.17, Prison Rape Elimination Act of 2003 (PREA), stating MWP will not tolerate retaliation against parties who in good faith report sexual abuse or sexual harassment individuals that retaliate may face disciplinary action. When sexual abuse or sexual harassment has been substantiated or unsubstantiated, staff and inmates involved will be monitored for at least 90 days to prevent retaliatory conduct or treatment from others. Staff will be assigned by the PREA specialist to monitor retaliation of inmates using the Retaliation Monitoring Data Sheet. The Human resources department will monitor staff using the retaliation monitoring data sheet.

#### **Standard 115.68 Post-allegation protective custody**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

MWP demonstrated compliance with this standard. MWP 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 auditor reviewed an incident involving an inmate victim of a staff aggressor. The inmate was placed in segregated housing until the employee could be removed from any possible contact with the inmate. The inmate was immediately removed from segregated housing and returned to general population in less than 72 hours.

Auditor interviews with Warden Daly and staff who supervise inmates in segregated housing demonstrated a belief that all efforts should be made to not further traumatize an inmate at risk of sexual victimization or who has been sexually victimized.

#### **Standard 115.71 Criminal and administrative agency investigations**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

**Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion**



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

MWP demonstrated compliance with most elements of this standard. DOC Policy 1.3.13, Administrative Investigations, DOC Policy 3.1.19, Investigations, DOC Policy 3.1.28, Crime Scene and Physical Evidence Preservation, and DOC Policy 1.1.17, Prison Rape Elimination Act of 2003 (PREA) were provided for the auditor review.

MWP and the Montana Department of Corrections do not conduct criminal investigations. Criminal Investigation for MWP is referred to the Billings Police Department. MWP and the Montana Department of Corrections conduct its own administrative investigations. Once an allegation is received, an incident report is created and forwarded to the Investigations Manager who reviews it and determines who the appropriate investigative agency will be and immediately initiates an investigation.

In cases that are potentially criminal, the Billings Police Department is contacted and a request for investigation is made. In administrative cases, a department investigator is assigned to conduct the investigation. All agency investigators have completed the NIC investigations course for conducting sexual abuse investigations in a confinement setting in addition to all Departmental Investigations and PREA training.

During an auditor interview with the agency's investigations manager, he was able to effectively describe how investigations are conducted what actions would be taken to ensure all direct and circumstantial evidence was preserved. The investigations manger stated that the agency would not conduct compelled interviews out of concerns of compromising an ongoing criminal case. He further verified the following: the credibility of the alleged victim is not based upon the person's status as a staff or inmate, but rather what the evidence supported as being true; Inmates are not subjected to polygraph examinations as part of any sexual abuse investigation; the departure of the alleged abuser or victim form employment or control of the agency does not terminate an investigation; and a preponderance of evidence is all that is required to substantiate an allegation of sexual abuse or sexual harassment.

All criminal and administrative investigations are documented with an investigative summary that includes written reports that include a description of physical and testimonial evidence and the investigative findings and facts. Any investigation that has sufficient evidence to indicate a crime has occurred will be referred for prosecution.

The PREA standard requires the agency to retain all written reports for criminal and administrative investigations involving sexual abuse and sexual harassment for as long as the alleged abuser is incarcerated or employed by the agency, plus five years. No information was provided to the auditor regarding the retention of these records.

**Corrective Action:** Provide to the auditor evidence to support that criminal and administrative investigative files are being retained in accordance the PREA standard.

**Action taken:** Mr. Andy Jess, Agency PREA Coordinator, provided updated language in MDOC Policy 1.1.17, Prison Rape Elimination Act of 2003 (PREA) which states All administrative and criminal investigation written reports will be retained for as long as the alleged abuser is incarcerated or employed by the Department, plus five years. In addition, a copy of the General Records Retention Schedule was provided for the auditor's review. It states that Administrative Investigations would be retained for ten years after their termination.

### **Standard 115.72 Evidentiary standard for administrative investigations**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

MWP and the Montana Department of Corrections demonstrated compliance with this standard. The auditor reviewed DOC Policy 1.3.13, Administrative Investigations and DOC Policy 1.1.17, Prison Rape Elimination Act of 2003 (PREA) which states that investigators will not use a standard higher than preponderance of the evidence in determining whether allegation of sexual abuse or sexual harassment are  
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substantiated.

### **Standard 115.73 Reporting to inmates**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

MWP demonstrated compliance with all elements of this standard. DOC Policy 1.1.17, Prison Rape Elimination Act of 2003 (PREA) states 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.

If MWP did not conduct the investigation or the PREA allegation took place at a different facility, MWP will request the relevant information from the investigative agency in order to inform the inmate.

Following a substantiated allegation that a staff member committed sexual abuse or sexual harassment, MWP will inform the inmate whenever: the staff member is no longer located within the inmate's unit; the staff member is no longer employed at the facility; the staff member has been charged related to the sexual abuse within MWP; or the staff member has been convicted on a charge related to the sexual abuse with MWP.

Following a substantiated allegation of sexual abuse by another inmate, MWP will inform the alleged victim whenever: the alleged abuser has been charged related to the sexual abuse within MWP; or the alleged abuser has been convicted on a charge related to sexual abuse within MWP.

The auditor was provided documentation of investigative summaries, request for investigative reports, requests for investigations, and documentation that notification was made to inmates regarding the outcome of investigations.

During an auditor interview with an inmate who alleged sexual abuse, it was verified that notification was made regarding the outcome of the investigation.

### **Standard 115.76 Disciplinary sanctions for staff**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

MWP demonstrated compliance with all elements of this standard. DOC Policy 1.1.17, Prison Rape Elimination Act of 2003 (PREA) states staff who violate this procedure are subject to administrative discipline including termination of employment, criminal prosecution, or both.

In the previous 12 months there was one substantiated case of staff sexual misconduct that resulted in the staff being terminated from employment.

During an auditor interview with Human Resources, it was reported that the staff would be removed from contact with inmates until completion of the investigation. If a violation of sexual abuse was substantiated, the presumptive discipline would be termination from employment. It was further indicated during the interview that sanctions for violation 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.

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**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

MWP demonstrated compliance with this standard. DOC Policy 1.1.17, Prison Rape Elimination Act of 2003 (PREA) states that service providers who violate the PREA policy are subject administrative sanctions including removal and denial of access, criminal prosecution or both. During the previous 12 months there was no contractors or volunteers reported to law enforcement.

During an auditor interview with Warden Daly, she 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**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

MWP has demonstrated compliance with this standard. MWP Policy 3.4.1, Adult 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 sanction shall be commensurate with the nature and circumstances of the offense and the offender. 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. Offenders are disciplined for sexual contact with staff only upon finding the staff member did not consent to such contact and inmates are not subject to discipline for a report of sexual abuse made in good faith.

MWP reported that in the previous 12 months, there were four reported incidents of inmate on inmate sexual abuse. Investigative summaries, incident report forms and disciplinary sanctions were provided for the auditor to review.

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

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

MWP has demonstrated compliance with all elements of this standard. All inmates are screened by medical staff immediately upon intake. Any inmate who discloses prior sexual victimization during the screening are offered a follow up meeting with medical and mental health providers. The medical screening is provided upon intake and any requested follow up is scheduled within the 14 days required by the PREA standard..

In the previous 12 months, 100% of all inmates received to the facility were screened by medical staff. During those screenings, two reported previous sexual victimization and were provided a follow up meeting with medical and mental health providers. During the previous 12 months no inmates reported previously perpetrating sexual abuse, requiring a follow up with medical and mental health providers.

Medical and Mental Health staff interviewed by the auditor were able to describe how healthcare information and any information regarding victimization and/abusiveness is only shared with those staff directly involved in treatment plans, housing and program assignments, PREA Specialists, or as otherwise required by federal, state and local laws.

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

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

MWP demonstrated compliance with all elements of the standard. MWP reports no victims of sexual abuse in the past twelve months, resulting in no medical records for the auditor to review.

DOC 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 assault. Services will include but are not limited to: if the incident took place with 72 hours, MWP medical staff will transport the inmate to an outside medical provider for additional assessment of potential assault; if a Sexual Assault Evidence Collection Kit is used, completed the MWP Patient Care Protocol form.

Interviews with medical and mental health staff indicated that inmate victims of sexual abuse would receive timely and unimpeded access to emergency medical treatment and crisis intervention services as determined by medical and mental health practitioners according to their professional judgement.

DOC Policy 1.1.17, Prison Rape Elimination Act of 2003 (PREA), outlines first responder duties. All staff interviews demonstrated a good understanding of what staff would do if they were the first responder to a sexual abuse incident. All knew what steps they would take to protect the victim and knew to immediately notify the appropriate medical and mental health practitioners.

The Office of Investigations or Law Enforcement Agency will take custody of the evidence; if the incident did not happen within the last 72 hours medical staff will refer the inmate to in-house medical care and in emergency situations, refer the inmate to outside medical care; medical staff will offer all parties involved in a sexual abuse or sexual harassment incident mental health treatment and fill out the Request for Mental Health Services form; provide inmates access or contact information to outside victim advocates for support services related to sexual assault.

DOC Policy 1.1.17, Prison Rape Elimination Act of 2003 (PREA), states that inmate victims shall be offered timely access to emergency contraception STD prophylaxis and that all services will be provided at no cost to the inmate.

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

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

MWP demonstrated compliance with all elements of this standard. MWP Policy 1.1.17, Prison Rape Elimination Act of 2003 (PREA), states that MWP will provide victim services to inmates who are victims of sexual abuse or sexual harassment. Services must be made available without financial cost to the victim and must include, 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, and all pregnancy-related test and services; and access to a victim advocate or rape crisis center counselor who can offer emotional support services throughout the investigative process, or access to a qualified facility staff person.

The facility has had no substantiated cases of sexual abuse that involved sexual acts that could result in pregnancy or the transmission of a sexually transmitted disease. During interviews of medical personnel, it was noted that if indicated, pregnancy tests, emergency contraception, STD prophylaxis and services would be immediately provided.

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.

### **Standard 115.86 Sexual abuse incident reviews**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)

- Does Not Meet Standard (requires corrective action)

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

MWP demonstrated compliance with most elements of this standard. DOC Policy 1.1.17, Prison Rape Elimination Act of 2003 (PREA), requires that a sexual abuse incident review be completed at the conclusion of every sexual abuse or sexual harassment investigation whether the allegation has been determined to be substantiated or unsubstantiated. The policy requires that this review be completed within 30 days of the conclusion of the investigation. The incident review team will consider the following: whether the allegation or investigation indicates a need to change policy or procedure to better prevent, detect, or respond to sexual abuse; consider whether the incident or allegation was motivated by race, ethnicity, gender identity, gang affiliation, or if it was motivated by other dynamics; examine the area where the incident allegedly occurred to assess whether physical barriers may enable sexual abuse; assess the adequacy of staffing levels in that area during different shifts; and assess whether monitoring technology should be deployed or augmented to supplement supervision by staff. A report is completed detailing the findings of the review team to include determinations made and any recommendations for improvement or documentation for not doing so. The final report is submitted to the Facility Warden, Facility PREA Specialist (PREA Compliance Manager) and the Department PREA Coordinator (PREA Compliance Coordinator) for review.

The facility provided six completed incident reviews for the auditor to review. The review team consisted of the Agency PREA Compliance Coordinator, Facility Warden and Associate Wardens, Hearings Officer, Facility Compliance Manager, and Facility PREA Compliance Manager.

**Corrective Action:** The PREA Standard states the review team will include upper level management officials with input for line supervisors, investigators, and medical or mental health practitioners. In the incident reviews provided, there was no indication that medical or mental health had been consulted in any of the reviews. Provide for the auditors review that future incident reviews will include consultation with medical and mental Health practitioners.

**Action taken:** Mr. Andy Jess, Agency PREA Coordinator, provided a memorandum from Warden Daly establishing a team for Sexual Abuse Incident Reviews that includes the Warden, Associate Wardens, PREA Compliance Manger, Correctional Manager, Mental Health Program Manager, Medical Services Manager and On-duty Lieutenants. Other staff may be included in these reviews as needed.

MWP Procedure 1.1.17, Prison Rape Elimination Act of 2003 (PREA) was updated to include the following language, The review team may consist of the PREA Specialist, Department PREA Coordinator, investigator, AW of Operations, medical or mental health staff, and other staff with direct involvement.

### **Standard 115.87 Data collection**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

MWP and the Montana Department of Corrections has demonstrated basic compliance with this standard, but is continuing to work improve their processes related to accessibility to the data being collected. Currently the Montana Department of Corrections has established a secure drive on the agency data system where a PREA tracking form is accessible for a limited number of agency personnel at each facility and at

central office to track incidents of sexual abuse and sexual harassment within the agency. Information included on this tracking systems includes the following: Date incident occurred; Case number assigned by investigations; Facility; Location within the facility; Suspect information; Gender; Race; Age; Victim Information; Type of allegation; Investigative Agency; Disposition of the case; Injuries; Medical and mental health services provided; Whether the case was referred for prosecution with a summary of the incident.

The agency is currently working to transition this record keeping on an Offender Management Information System (OMIS) and is unsure when the transition will be completed.

A copy of the Annual PREA Report was provided for review by the auditor. The latest report is available to the general public via the Agency's website.

### **Standard 115.88 Data review for corrective action**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

MWP and the Montana Department of Corrections have demonstrated compliance with all elements of this standard. The Department has developed and published on its website a thorough and detailed report and analysis identifying problem areas and corrective action. Additionally, they have produced and published a report with a comparison with previous years' data and an assessment regarding the agency's progress in addressing sexual abuse.

The Agency reviews collected data to assess and improve the effectiveness of its efforts to prevent, detect, and respond to PREA related concerns. The data is used to help identify problem areas and to determine what corrective action is needed. An annual report was published that has been reviewed and approved by the Agency Director's Office.

### **Standard 115.89 Data storage, publication, and destruction**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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

MWP and the Montana Department of Corrections have demonstrated compliance with all elements of this standard. The Agency PREA Coordinator collects data and reports from all facilities and compiles a report annually of investigations of all allegations of sexual abuse and sexual harassment.

The Agency Coordinator compiles the report which consists of prevention and response, findings of corrective action and the assessment of the Department's progress in addressing sexual abuse and sexual harassment allegations. This report is compared against previous years. The

Agency PREA Coordinator then submits the report to the Director of the Montana Department of Corrections for their review. Once the review is complete a copy is then placed on the department's website. All data and reports are submitted to the U.S. Department of Justice upon request. A review of the agency's website demonstrated that the report for the 2015 calendar year was posted for public review.

The PREA Coordinator maintains records of sexual abuse and sexual harassment cases pursuant to the state's Records Retention Schedule. All investigation records are retained for five years after the close of the investigation. Excluded are records covered by the Prison Rape Elimination Act which are retained for 10 years after the close of the investigation. This includes incident and investigative reports, evidence cards, photographs, interviews, and other related items.

## **AUDITOR CERTIFICATION**

I certify that:

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

Robert C. Real

August 26, 2016

Auditor Signature

Date