



**DEPARTMENT OF CORRECTIONS
MONTANA WOMEN'S PRISON
OPERATIONAL PROCEDURE**

Procedure: 1.1.17	Title: PRISON RAPE ELIMINATION ACT	
Effective Date:	09/12/2007	Page 1 of 21 and 20 Attachments
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Signature:	/s/ Jennie Hansen	/ Warden

I. PURPOSE

The Montana Women's Prison (MWP) has zero tolerance relating to all forms of sexual abuse and sexual harassment in accordance with the standards set forth in the *Prison Rape Elimination Act of 2003 (PREA)*.

II. DEFINITIONS

Administrative Investigation – Any agency investigation that is not conducted for the purpose of law enforcement or criminal prosecution.

Administrator – The official, regardless of local title (division of facility administrator, bureau chief, warden, superintendent), ultimately responsible for the division, facility, or program operator and management.

Administrative Review Committee – A committee consisting of the Warden, Associate Warden of Security, Associate Warden of Programming, Disciplinary Hearings Officer, PREA Compliance manager, Case Managers, Medical Supervisor, Mental Health Supervisor, Reentry Lieutenant and Grievance / Classification Officer or designees.

Confidential – Information to be shared only by order of a court or with those whose official capacity dictates their absolute need to know.

Criminal Investigation – A formal investigation by a law enforcement agency having jurisdiction (LEAJ) or by a Department of Corrections criminal investigator to discover whether there is probable cause to believe that criminal conduct has occurred.

Criminal Investigator – A Department of Corrections investigator in the Office of Investigations with sworn Peace Officer authority established through a Memorandum of Understanding with the Montana Department of Justice, Division of Criminal Investigations.

Department Employee – A person employed by the Department of Corrections who has attained permanent status or is eligible to attain permanent status, as provided in 2-18-601, MCA; volunteers, interns, temporary and short-term workers; this term does not include service providers.

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Garrity Warning – Formal advisement given to an individual during an administrative investigation when potential for criminal charges may exist. Neither the individual’s answers nor the fruits of those answers may be used against the individual in a subsequent or concurrent criminal prosecution.

Incarcerated Inmate – Any individual detained in a Department-owned, operated, or contracted facility that is sentenced or committed to the Department of Corrections supervision. In secure care facilities offenders are called inmates.

Intersex- A person whose sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male or female. Intersex medical conditions are sometimes referred to as disorder of sexual development.

Investigation – A formal fact-finding activity for the specific purpose of addressing complaints or allegations. Investigations may include, but are not limited to interviews, surveillance, review of electronic and paper records, correspondence, and other information storage devices.

Investigator – The designated Department employee assigned to conduct an official investigation of a complaint, incident, or report of sexual abuse or sexual harassment of an offender.

Law Enforcement Agency of Jurisdiction (LEAJ) – The government agency, i.e. sheriff’s office or local police department, operating within their defined area of responsibility.

Montana Women’s Prison (MWP)- A facility that houses adult female inmates for the state of Montana.

PREA Compliance Manager – The MWP employee responsible for administration and management of the prison-wide PREA program and coordination with Department’s PREA Coordinator.

PREA Coordinator – The Department position responsible for administration and management of the Department-wide PREA program including but not limited to compliance, policy and procedure development, staff training, offender education, and records and statistical tracking.

Qualified Health Care Professionals – Physicians, physician assistant, nurses, nurse practitioners, dentists, mental health professionals and other who by virtue of their education, credentials, and experience are permitted by the law to evaluate and care for inmates, including contracted or fee-for service professionals.

Qualified Mental Health Professionals – Psychiatrists, psychologists, psychiatric social workers, psychiatric nurse, licensed professional counselors and others who by virtue of their education, credentials, and experience are permitted by the law to evaluate and care for the mental health needs of Inmates.

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Service Providers - This term includes contracted persons or other vendors providing service whose assignment is primarily on Department premises, e.g. facility or program office.

Sexual abuse of an Inmate by another Inmate – Sexual acts, sexual contact or any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation, in which the victim does not consent, is coerced by overt or implied threats of violence, or is unable to consent or refuse.

Sexual Abuse of an Inmate by an Employee or Service Provider – Sexual acts, sexual contact or any other intentional contact, either directly, through the clothing or with an object, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks, any attempt, threat, or request by an employee or service provider to engage in these activities, any display by an employee or service provider of his or her uncovered genitalia, buttocks, or breast in the presence of an offender, or voyeurism by an employee or service provider, when these acts are unrelated to official duties or where the employee or service provider has the intent to abuse, arouse, or gratify sexual desire.

Sexual Harassment of an Inmate by Another Inmate – Repeated and unwelcomed sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one inmate directed toward another inmate.

Sexual Harassment of an Inmate by an Employee or Service Provider – Repeated verbal comments or gestures of a sexual nature to an inmate by an employee or service provider, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.

Substantiated – An event was investigated and determined to have occurred, based upon the preponderance of the evidence.

Transgender- A person whose gender identity (i.e., internal sense of feeling male or female) is different from the person’s assigned sex at birth.

Unfounded – An event was determined not to have occurred.

Unsubstantiated – Evidence was insufficient to meet the preponderance of the evidence to make a final determination as to whether or not the event occurred.

Volunteer- Any person who has been approved to provide services for Department programs without compensation.

Voyeurism - An invasion of privacy of an offender by a staff member or service provider for reasons unrelated to official duties.

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III. PROCEDURES

A. General Requirements

1. Montana Women's Prison will comply with all applicable standards under *28 CFR Part 115, Prison Rape Elimination Act of 2003*. Documentation of compliance with all standards will be maintained by the Montana Women's Prison.
2. All employees and service providers are required to report any allegations of sexual abuse and sexual harassment. Montana Women's Prison will fully investigate reported incidents, pursue disciplinary action, and refer for investigation those who violate the requirements set forth in this procedure.
3. The Warden, or designee, will appoint a PREA Compliance Manager responsible for the following:
 - a. coordinating and developing procedures to identify, monitor and track staff sexual abuse and sexual harassment;
 - b. coordinating facility PREA-related activities with the PREA coordinator
 - c. ensuring facility compliance with this procedure, *DOC 1.1.17 Prison Rape Elimination Act of 2003 (PREA)*, applicable state or federal laws, and the PREA standards;
 - d. compiling records and reporting statistical data to the Department PREA Coordinator; and
 - e. ensuring facility compliance with PREA training requirements.
4. The general public may report an alleged sexual abuse or sexual harassment incident to MWP by calling (406) 247-5100 extension 5129 for the On-duty Lieutenant.

B. Prevention and Intervention

1. Employees must be alert to situations in which sexual abuse or sexual harassment might occur and be capable of identifying indicators of sexual abuse and sexual harassment.
2. Any new contract or contract renewal for the confinement of inmates will include the contract entity's obligation to adopt and comply with the PREA standards and a provision for the department to monitor the contract to ensure the contractor is complying with the PREA standards.
3. When designing or acquiring any new facility and in planning any substantial expansion or modification of the existing facility, MWP and the department will consider the effect of the design, acquisition, expansion, or modification upon MWP's and department's ability to protect inmates from sexual abuse.

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4. When installing or updating a video monitoring system, electronic surveillance system, or other monitoring technology, MWP and the department will consider how such technology may enhance MWP's and department's ability to protect inmates from sexual abuse.
5. MWP will not enter into or renew any collective bargaining agreement or other agreement that limits the department's ability to remove alleged staff sexual abusers from contact with any offender pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted.
6. MWP has developed a staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring, to protect inmates against abuse. In circumstances where the staffing plan is not complied with, facilities will document and justify all deviations from the plan in the shift log located in the Lieutenant's office for each shift.
7. MWP will review the staffing plan annually, in consultation with the PREA coordinator, to assess and document whether adjustments are needed (attachment A).
8. MWP requires intermediate-level and higher-level staff to conduct random unannounced rounds to identify and deter employee or service provider sexual abuse and sexual harassment. These rounds must be documented in the shift log and cover all shifts and all areas of MWP. MWP prohibits employees from alerting others of the conduct of such rounds.
9. MWP will identify, assess, and manage inmates with special needs, including those who are potentially vulnerable or dangerous, to provide safe housing, adequate protection, and programmatic resources to meet their needs in accordance with *DOC Policy 4.2.2 Special Needs Offenders*.
10. Transgender and intersex inmates will be given the opportunity to shower separately from other inmates either through physical separation by separate shower stalls, or by time-phasing or scheduling of showers.
11. MWP will not place lesbian, gay, bisexual, intersex or transgender inmates in dedicated units or wings solely based on such identification or status.
12. Victims of sexual abuse and inmates at high risk for sexual victimization will not be placed in locked housing for protective purposes unless an assessment of all available alternatives has been made and a determination is made that there is no alternative means of separation. If MWP cannot conduct such an assessment immediately, MWP may hold the inmate in locked housing for up to 24 hours while completing the assessment. MWP will clearly document the basis for concern for the inmate's safety and the reason no alternative means of separation could be arranged. Administrative Review Committee will review each inmate placed in Restricted Housing for protective purposes every 7 days. The Classification Officer will maintain the documentation.

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13. Inmates placed in Restrictive Housing for protective purposes will have access to programs, privileges, education, and work opportunities to the extent possible. If access is restricted MWP will document what opportunities have been limited, the duration of the limitation and the reasons for such limitations.

C. Training

1. Prior to working with inmates, all MWP employees with direct and/or incidental contact with inmates must receive documented PREA training. If an employee is unable to attend comprehensive PREA classroom training prior to contact with inmates, they must receive pre-service training in the form of reviewing the PREA policy and a PREA brochure (attachment B) and signing an acknowledgment form (attachment C). The employee must then attend the next available classroom training.
2. Comprehensive classroom training and pre-service training will include, but is not limited to:
 - a. review of this procedure, *DOC 1.1.17 Prison Rape Elimination Act of 2003 (PREA)*, , *DOC Policy 1.3.12 Staff Association and Conduct with Offenders*, appropriate site-specific procedures, and any other applicable state or federal laws;
 - b. the Department's and MWP's zero tolerance policy for sexual abuse and sexual harassment;
 - c. how employees and service providers fulfill their responsibilities under the department and MWP's sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures;
 - d. an inmate's right to be free from sexual abuse and sexual harassment;
 - e. Inmate and employee rights to be free from retaliation for reporting sexual abuse and harassment;
 - f. the dynamics of sexual abuse and harassment in confinement;
 - g. common reactions of sexual abuse and sexual harassment victims;
 - h. how to detect and respond to signs of threatened and actual sexual abuse;
 - i. how to avoid inappropriate relationships with inmates;
 - j. how to communicate effectively and professionally with inmates who might be lesbian, gay, bisexual, transgender, intersex (LGBTI) or gender nonconforming;
 - k. how to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities;
 - l. facility procedures on sharing confidential information; and
 - m. gender-specific information tailored to the gender of the offenders at the facility.
3. Each employee will attend refresher training in odd number years to cover the topics in C.2 above. In even number years, employees will receive refresher information on current sexual abuse and sexual harassment policies.
4. All volunteers and service providers who have contact with inmates will be trained at a minimum on the Departments and MWP's zero tolerance policy concerning sexual abuse and harassment, prevention, detection, and response methods, and how to report such

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incidents (attachment D). The level and type of training provided to volunteers and service providers will be based on the services they provide and the level of contact they have with offenders and could rise to the level of employee training referenced in C.2 above. Volunteers and service providers will sign a training acknowledgment form (attachment E).

5. Medical and mental health providers will receive additional, specialized training relevant to their role in detecting and assessing signs of sexual abuse and sexual harassment, preservation of evidence, and responding effectively to victims of sexual abuse and sexual harassment.
6. Employees who conduct sexual abuse investigations will receive additional training in conducting such investigations in confinement settings, to include techniques for interviewing sexual abuse victims, proper use of Miranda and Garrity warnings, sexual abuse evidence collections, and the criteria and evidence required to substantiate a case for administrative action or prosecution referral.
7. All training will be documented, through signature or electronic verification, showing acknowledgement that the employee, volunteer, or service provider received and understood the training. For comprehensive training, staff will use the Comprehensive PREA Training Acknowledgment. This form will be kept in each staff member's personnel record.

D. Inmate Education

1. Within 72 hours of intake, employees will communicate to inmates, verbally and in writing (attachment F):
 - a. information about MWP's zero tolerance of sexual abuse and sexual harassment;
 - b. how to report incidents or suspicion of abuse or harassment; and
 - c. this procedure, *DOC 1.1.17 Prison Rape Elimination Act of 2003 (PREA)*, *1.3.12 Staff Association and Conduct with Offenders*, *3.3.3 Offender Grievance Program*, and corresponding site-specific procedures.
2. Within 30 days of intake, MWP will provide education to inmates either in person or through video regarding their rights to be free from sexual abuse and sexual harassment (attachment G) and to be free from retaliation for reporting such incidents and regarding MWP's procedures for reporting and responding to such incidents.
3. Inmates will receive education upon transfer to MWP regarding any policies and procedures of MWP that differ from those of the previous facility.
4. MWP will take appropriate steps to ensure inmates with disabilities have an equal opportunity to participate in or benefit from all aspects of the MWP's efforts to prevent, detect and respond to sexual abuse and sexual harassment. Such steps will include access to interpreters and written materials provided in formats or through methods that ensure effective communication. MWP will provide inmate education in formats accessible to all

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inmates, including those who are limited English proficient, deaf, visually impaired, or otherwise disabled, as well as to inmates who have limited reading skills.

5. MWP will maintain documentation of inmate participation in PREA education sessions and have inmates sign an acknowledgment form.
6. MWP will ensure that PREA information is continuously and readily available or visible to inmates through posters, offender handbooks, or other written formats.

E. Screening for Risk of Victimization or Abusiveness

1. Risk assessment of all inmates using an objective screening instrument for victimization or abusiveness will take place within 72 hours of intake into MWP (attachment H).
2. Within 30 days of intake MWP will reassess the inmate's risk of victimization or abusiveness, taking into consideration any additional relevant information received by MWP since the initial screening.
3. MWP will conduct additional screening assessments when warranted based on any new information, referral, request, or incident of sexual abuse.
4. Risk assessments for returning inmates (i.e. hospital stays, etc.): inmates will be reassessed upon returning to a facility if the inmate was not under custodial care (direct supervision) of MDOC facility staff, regardless of the time spent out of custodial care. Staff will also consider if there are any changes to the status of the inmate that would require a reassessment (i.e. significant weight loss after a hospital stay even if the inmate was in custodial care; a new disability; a new report of sexual abuse or perpetration while in custodial care but outside of the facility, etc.) This reassessment upon return to a facility will be conducted within 72 hours of returning to the facility but before deciding a new housing assignment (i.e. if the inmate's bed was held pending a leave to court, they can return to that bed without immediately conducting a reassessment, if the inmate is returning but to a different housing assignment, the assessment must be completed before going to the new housing assignment.)
5. The screening instrument will consider, at a minimum, the following criteria for risk of sexual victimization:
 - a. whether the inmate has a mental, physical, or developmental disability;
 - b. the age of the inmate;
 - c. the physical build of the inmate;
 - d. whether the inmate has previously been incarcerated;
 - e. whether the inmate's criminal history is exclusively nonviolent;
 - f. whether the inmate has prior convictions for sex offenses against an adult or child;
 - g. whether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming;
 - h. whether the inmate has previously experienced sexual victimization; and
 - i. the inmate's own perception of vulnerability.

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6. The screening will consider prior acts of sexual abuse, prior convictions for violent offenses, and history of prior institutional violence or sexual abuse in assessing the inmate's risk for being sexually abusive.
7. Inmates will not be disciplined for refusing to answer, or for not disclosing complete information in response to, questions asked during screening or reassessment.
8. When the risk assessment indicates an inmate has experienced prior sexual victimization or previously perpetrated sexual abuse, whether it occurred in the community or in an institutional setting, MWP will ensure the inmate is offered a follow-up meeting with a qualified mental health professional within 14 days of the assessment.
9. Information from the risk assessment for victimization or abusiveness will be provided on a need to know basis to individuals who make housing, bed, work, education, and program assignments and used with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive.
10. In deciding whether to assign a transgender or intersex inmate to MWP, and in making other housing and programming assignments, the Department and MWP will consider on a case-by-case basis the placement's effect on the inmate's safety, whether the placement would present management or security problems, and whether such placement would likely endanger the safety of other inmates.
11. A review committee consisting of a qualified health care professional, qualified mental health professional, PREA coordinator, chief legal counsel or designee, and the Montana State Prison and Montana Women's Prison wardens or designees will determine appropriate facility placement of transgender and intersex offenders based on their review of all relevant information.
 - a. The review committee will conduct an individual assessment of each transgender and intersex inmate based upon their specific areas of expertise, knowledge, and control.
 - b. This assessment will occur as soon as possible following notification to the Department that a transgender or intersex inmate has been committed to a Department secure facility but no later than 30 days after arrival at a facility.
 - c. The review committee may request information or participation from other subject matter experts as needed.
 - d. All documentation, information, and recommendations of the review committee are confidential and will be maintained in a secure location.
 - e. The recommendation for facility placement by the review committee will be given to the Director for final approval.
12. Placement and programming assignments for each transgender or intersex inmate will be reassessed at least twice each year to review any threats to safety experienced by the inmate. A transgender or intersex inmates' own views with respect to his or her own safety will be given serious consideration.

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F. Inmate Reporting

1. MWP provides multiple internal ways for inmates to privately report sexual abuse and sexual harassment, retaliation by other inmates or employees for reporting sexual abuse and sexual harassment, and employee neglect or violation of responsibilities that may have contributed to such incidents.
2. MWP provides at least one way for inmates to report abuse or harassment to a public or private entity that is not part of the department, and that is able to receive and immediately forward any reports from inmates of any sexual abuse or harassment to facility or department officials, allowing the inmate to remain anonymous upon request. This method of reporting is posted throughout the facility.
3. 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:
 - a. report the incident to an employee or service provider verbally, in writing, anonymously or through a third party;
 - b. write a grievance and place it in the locked grievance box, following the formal grievance procedure in accordance with *MWP Procedure 3.3.3 Offender Grievance Program*;
 - c. use the Department-approved free confidential telephone hotline operated by an external agency; or
 - d. use the inmate phone system, following the instructions on the phone, to leave a message for a Department employee.
4. Employees and service providers will accept reports verbally, in writing, anonymously, and from third parties and will promptly document any verbal reports.
5. Reports made in bad faith, which includes deliberately malicious reports by inmates or other parties will result in disciplinary action and/or criminal charges.

G. First Responder Duties

1. Upon learning of an allegation that an inmate was sexually abused, the first security staff to respond to the report will:
 - a. separate the alleged victim and alleged perpetrator;
 - b. preserve and protect any crime scene until appropriate steps can be taken to collect any evidence, in accordance with *DOC 3.1.28 Crime Scene and Physical Evidence Preservation*;
 - c. if the abuse allegedly occurred within a time period that allows for the collection of physical evidence, typically 72 hours, request that the alleged victim and ensure that the alleged abuser not take any actions that could destroy physical evidence such as washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating.

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2. If the first employee or service provider to learn of an allegation that an inmate was sexually abused is not security staff, the employee or service provider will request that the alleged victim not take any actions that could destroy physical evidence, take reasonable steps to ensure the victim's safety, and immediately notify security staff.
3. MWP will maintain a written institutional plan to coordinate actions taken in response to an incident of sexual abuse among employee and service provider first responders, medical and mental health practitioners, investigators, and facility leadership (attachment I).

H. Employee and Service Provider Reporting

1. 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, whether or not it is part of the department; retaliation against inmates or employees who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.
2. Employees and service providers may privately report sexual abuse or sexual harassment through their chain of command or by notifying the department PREA coordinator at CORPREAreporting@mt.gov or 406-444-6583.
3. If the alleged victim is under the age of 18, the administrator, or designee, must report the allegation to:
 - a. the Director or Deputy Director immediately upon receipt of the allegation; and
 - b. the Department of Public Health and Human Services in accordance with *41-3-201, MCA*. DPHHS contact information is located in the Coordinated Response Plan.
4. If the alleged victim is at least 60 years old or is a person with a developmental disability, the administrator, or designee, must report the allegation to the Department of Public Health and Human Services in accordance with *52-3-811, MCA*. DPHHS contact information is located in the Coordinated Response Plan.
5. Apart from reporting to designated supervisors or officials, employees and service providers will not reveal any information related to a sexual abuse report to anyone other than to the extent necessary to make treatment, investigation, and other security and management decisions.
6. Unless otherwise precluded by law, medical and mental health practitioners will report sexual abuse according to MWP procedures and will inform inmates of their duty to report, and the limitations of confidentiality, at the initiation of services.
8. Allegations that an inmate was sexually abused while at another facility must be reported by the Warden to the administrator of the facility where the abuse occurred as soon as possible but no later than 72 hours after the initial report. For allegations involving a

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resident of a juvenile facility the Warden will also notify the appropriate investigative agency.

9. The Office of Investigations has primary jurisdiction over MWP's criminal investigations, therefore, MWP will report potential criminal conduct to the Office of Investigations.
10. Sexual abuse or harassment by an employee, service provider, or inmate will be reported in accordance with *DOC Policy 1.1.6 Priority Incident Reporting and Acting Director*.
11. Reports of sexual abuse or sexual harassment by an employee, service provider, or inmate will be forwarded to the Office of Investigations, PREA compliance manager and the Department PREA coordinator within one business day.
12. Any employee or service provider who fails to report an allegation, or coerces or threatens another person to submit inaccurate, incomplete, or untruthful information may face dismissal or other disciplinary action.

I. Retaliation Monitoring

1. MWP will not tolerate retaliation against inmates, employees, or other parties for reporting sexual abuse or sexual harassment or cooperating with an investigation. Individuals that retaliate against any inmate or witness are subject to disciplinary action.
2. Employees who report sexual abuse or sexual harassment of an inmate will not be subjected to retaliation by anyone within or outside of their chain of command in accordance with DOC Policy 1.3.2 Employee Performance and Conduct.
3. MWP will employ multiple protective measures, such as transfers or removals to separate victims from abusers, and emotional support services.
4. MWP will monitor, for at least 90 days, the conduct and treatment of inmates and employees who reported sexual abuse or sexual harassment and inmates 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 (attachment J).
5. Monitoring will include reviewing any inmates' disciplinary reports, housing or program changes, or negative performance reviews or reassignments of employees. For inmates, monitoring will also include periodic status checks.
6. If an inmate is transferred from MWP to another Department facility during her monitoring, the MWP will notify the receiving facility of the inmate's monitoring status and the receiving facility will continue the monitoring for the remainder of the 90 days, or beyond if there is a continuing need. MWP will also continue retaliation monitoring for any inmate transferred to MWP while under retaliation monitoring, if notified by the sending facility.

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7. MWP will act promptly to investigate and remedy any detected retaliation.
8. MWP will designate staff members responsible for retaliation monitoring.
9. MWP's obligation to monitor retaliation may be terminated if the allegation is determined to be unfounded.
10. If any other individual who cooperates with an investigation expresses a fear of retaliation, the facility will take appropriate measures to protect that individual against retaliation.

J. Medical, Mental Health and Victim Services

1. Medical and mental health services for victims will be consistent with the community level of care.
2. MWP will develop procedures for providing services to inmates alleged to be victims of sexual abuse or sexual harassment within a confinement setting. Services must be made available without financial cost to the victim and must include, at minimum:
 - a. access to medical examination and treatment to include follow up care and referrals;
 - b. mental health crisis intervention and treatment;
 - c. timely access to emergency contraception, STD prophylaxis, and all pregnancy-related tests and services; and
 - d. access to a victim advocate or rape crisis center that can offer emotional support services throughout the investigative process, or access to a qualified employee or service provider.
3. MWP medical employees and service providers will adhere to the following standards for examination of victims of sexual abuse or sexual harassment:
 - a. if the victim refuses medical or mental health attention, document the refusal on the form (attachment K);
 - b. if reported within a time period which allows for collection of physical evidence, typically within 72 hours of the incident, and with the victim's permission, immediately transport the victim to a medical facility equipped with medical personnel certified as Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs), or if none are available, to a medical facility with other qualified medical practitioners, to evaluate and treat sexual assault/rape victims; and
 - c. if reported more than 72 hours after the incident, and with the victim's permission, adhere to the following:
 - i. refer the victim to appropriate health care providers responsible for treatment and follow up care for sexually transmitted or other communicable diseases who will complete a patient history, conduct an examination to document the extent of physical injury and determine whether referral to another medical facility is required; and

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- ii. upon request from law enforcement, transport the victim to a community medical facility for evidence collection.
4. Qualified mental health professionals will provide crisis intervention and ongoing services for victims of sexual abuse and sexual harassment and for other inmates affected (attachment L).
 5. MWP will attempt to conduct a mental health evaluation of all known Inmate-on-Inmate abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate by qualified mental health professionals.
 6. MWP will provide all inmates with access to outside victim advocates for emotional support services related to sexual abuse by giving inmates mailing addresses and telephone numbers of local, state, or national victim advocacy or rape crisis organizations. The facility will enable reasonable communication between inmates and these organizations in as confidential a manner as possible. MWP will inform inmates, prior to giving them access, of the extent to which such communications will be monitored and the extent to which reports of abuse will be forwarded to authorities.

K. Investigative Protocols

1. All reported incidents of sexual abuse and sexual harassment will be investigated promptly, thoroughly, and objectively. Criminal investigations will be conducted by either the LEAJ or by the Department's Office of Investigations in accordance with DOC Policy 3.1.19 Investigations.
2. The Warden, or designees, will ensure all employees follow appropriate evidence procedures outlined in *DOC Policy 3.1.28 Crime Scene and Physical Evidence Preservation*.
3. A Request for Investigation (RFI) for all allegations of sexual abuse and sexual harassment will be sent to the Office of Investigations no later than the end of shift of the person who received the allegation to initiate an investigation.
4. The Office of Investigations will forward reports that do not rise to the level of a criminal investigation to the PREA Compliance Manager, or designee, to be assigned to an investigator for an administrative investigation. For cases involving employees, the Office of Investigations will also notify the Office of Human Resources.
5. All allegations of sexual abuse or sexual harassment that are criminally investigated will also be administratively investigated. The administrative investigation will begin when the Office of Investigations determines that the administrative investigation will not interfere with the criminal investigation as provided in *DOC 1.3.13 Administrative Investigations*.

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6. Administrative investigations of inmate sexual abuse or sexual harassment will be conducted by Department employees who have received specialized training in conducting sexual abuse and sexual harassment investigations in a confinement setting.
7. Investigators will gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data. Investigators will interview alleged victims, suspected perpetrators, and witnesses and will review prior complaints and reports of sexual abuse involving the suspected perpetrator.
8. When the quality of evidence appears to support criminal prosecution, compelled interviews will only be conducted after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution.
9. The credibility of an alleged victim, suspect, or witness will be assessed on an individual basis and will not be determined by the person's status as an inmate or employee.
10. Inmates who allege sexual abuse will not be required to submit to a polygraph examination as a condition for proceeding with the investigation of an allegation.
11. MWP will not rely on inmate interpreters for investigations regarding sexual abuse or sexual harassment except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the inmate's safety, the performance of first-response duties or the investigation of the inmate's allegations. Interpreter service contact information can be found in the Lieutenant's Office, in the PREA Binder.
12. Department employees are guaranteed constitutional and administrative protections; within the boundaries of those protections, employees will cooperate with any authorized investigation or inquiry and will relate fully and truthfully their knowledge of all issues pertaining to the alleged conduct under investigation. Material omissions or the provision of materially false information which the employee knows or suspects to be false will result in the employee being subject to disciplinary action in accordance with DOC Policy 1.3.2 Employee Performance and Conduct.
13. Administrative investigators will issue the Interviewee an Administrative Investigation Warning (attachment M) to employees who are being interviewed as the subject of an investigation or witnesses in an investigation.
14. In cases of sexual abuse involving staff, the Separation Order Pending Investigation (attachment N) will be issued to the alleged staff member at the time of the allegation. The Return to Work – Case Closed (attachment O) form will be given to the staff member at the end of the investigation when the allegation is unfounded or unsubstantiated.

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15. When a staff member reports an allegation involving another staff member, the administrative investigator assigned to the case will give the complainant the Investigation Notice for Complainant (attachment P).
16. Information obtained during either a criminal or an administrative investigation may be jointly shared and utilized; however, a self-incriminating statement may not be utilized in a criminal investigation against an individual that has been provided with a Garrity Warning (attachment Q).
17. Investigators will not use a standard higher than preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated in administrative investigations.
18. The Warden, or designee, will provide investigators with unrestricted access to Department records including, but not limited to, documents; electronic recordings; and correspondence materials relevant to the investigation.
19. Administrative investigators must conduct fair and objective investigations, exercise professionalism during an investigation, and conduct investigations in such a manner that information is kept confidential.
20. Administrative investigations will include an effort to determine whether employee actions or failures to act contributed to abuse.
21. All investigations will be documented in a written report that includes a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings.
22. Investigative materials including, but not limited to incident reports, statements, and investigative reports will be stored in a criminal or administrative investigative case file. Criminal investigative case files must be submitted to the Investigations Manager. Administrative investigative case files must be submitted to the PREA compliance manager and the PREA coordinator.
23. 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.
24. Conduct that appears to be criminal will be referred by the Office of Investigations for prosecution.
25. The departure of the alleged abuser or victim from the employment or control of the facility or department will not provide a basis for terminating an investigation.

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26. If an outside agency investigates sexual abuse, the facility will cooperate with outside investigators and will endeavor to remain informed about the progress of the investigation.

L. Reporting to Inmates

1. Following an investigation into an inmate's allegation of sexual abuse or sexual harassment at MWP, the facility will inform the inmate as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded (attachment R).
2. If the investigation is conducted by a LEAJ, MWP will request relevant information from the LEAJ in order to inform the inmate.
3. Following an inmate's allegation that an employee or service provider has committed sexual abuse against the inmate, MWP will inform the inmate, unless the allegation is unfounded, whenever (attachment S):
 - a. the employee or service provider is no longer posted within the inmate's unit;
 - b. the employee or service provider is no longer employed at MWP;
 - c. MWP learns that the employee or service provider has been indicted on a charge related to sexual abuse within MWP; or
 - d. MWP learns that the employee or service provider has been convicted on a charge related to sexual abuse within MWP.
4. Following an inmate's allegation that she has been sexually abused by another inmate, MWP will inform the alleged victim whenever:
 - a. MWP learns that the alleged abuser has been indicted on a charge related to sexual abuse within MWP; or
 - b. MWP learns that the alleged abuser has been convicted on a charge related to sexual abuse within MWP.
5. All such notifications or attempted notifications will be documented.
6. MWP's obligation to report will terminate if the inmate is released from the department's custody.

M. Incident Reviews

1. MWP will conduct a sexual abuse incident review at the conclusion of every sexual abuse investigation, including where the allegation has not been substantiated, unless the allegation has been determined to be unfounded. Such review will occur within thirty (30) days of the conclusion of the investigation (attachment T). The PCM is responsible for scheduling incident reviews.

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2. The review team will include upper management from MWP, the PREA compliance manager, line supervisors, investigators, qualified medical or mental health professionals, and other employees with direct involvement.
3. The review team will:
 - a. consider whether the allegation or investigation indicates a need to change policy or procedure to better prevent, detect or respond to sexual abuse;
 - b. consider whether the incident or allegation was motivated by race, ethnicity, gender identity, LGBTI status or perceived status, STG affiliation or was motivated or caused by other group dynamics at the facility;
 - c. examine the area where the incident allegedly occurred to assess whether the physical barriers in the area may enable abuse;
 - d. assess the adequacy of staffing levels in that area during different shifts;
 - e. assess whether monitoring technology should be deployed or augmented to supplement supervision by staff; and
 - f. prepare a report of its findings and any recommendations for improvement and submit the report to the Warden, the Department PREA coordinator and facility PREA compliance manager.
4. MWP will implement the recommendations for improvement or document its reasons for not doing so.

N. Data Collection, Review, Storage, Publication and Destruction

1. There will be a system in place to collect data on incidents of sexual abuse or sexual harassment. Such data will be analyzed to determine possible corrective action or improvement.
2. MWP will collect accurate, uniform data for every allegation of sexual abuse at MWP and programs under its direct control using a standardized instrument and definitions set forth in this procedure.
3. The incident-based data collected will include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Victimization conducted by the Department of Justice.
4. The Department's Office of Investigations will maintain records of all criminal investigations of sexual abuse and sexual harassment conducted by that office or as provided by the LEAJ. MWP will maintain records of all administrative investigations of sexual abuse and sexual harassment at MWP. Records will include information on the outcome of any criminal or disciplinary charges.
5. MWP will aggregate the incident-based sexual abuse data at least annually. MWP will maintain, review, and collect data as needed from all available incident-based

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documents, including reports, investigation files, and sexual abuse incident reviews.

6. MWP's PREA compliance manager will maintain records of all allegations, investigations, and Incident Reviews and report such information to the PREA coordinator. Upon request, the Department will provide all such data from the previous calendar year to the Department of Justice.
7. MWP will provide aggregated sexual abuse data to the department PREA coordinator to make public at least annually through the Department website. All personal identifiers will be removed from this data prior to making it public. MWP will maintain sexual abuse data for at least 10 years after the date of its initial collection.

O. Sanctions

1. Employees will be subject to disciplinary sanctions up to and including termination for violating agency sexual abuse or sexual harassment policies. Termination is the presumptive disciplinary sanction for employees who have engaged in sexual abuse.
2. Disciplinary sanctions for violations of Department policies and procedures relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) will be commensurate with the nature and circumstances of the acts committed, the employee's disciplinary history, and the sanctions imposed for comparable offenses by other employees with similar histories.
3. All terminations for violations of department sexual abuse or sexual harassment policies, or resignations by employees who would have been terminated if not for their resignation, will be reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies.
4. Service providers or volunteers who engage in sexual abuse will be prohibited from contact with inmates and will be reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies. MWP will take appropriate remedial measures and will consider whether to prohibit further contact with inmates, in the case of any other violation of Department sexual abuse or sexual harassment policies and procedures by a service provider.
5. Inmates are subject to disciplinary sanctions pursuant to a formal disciplinary process following an administrative finding that the inmate engaged in inmate-on-inmate sexual abuse or following a criminal finding of guilt for inmate-on-inmate sexual abuse.
6. Sanctions will be commensurate with the nature and circumstances of the abuse committed, the inmate's disciplinary history, and the sanctions imposed for comparable offenses by other inmates with similar histories.

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7. The disciplinary process will consider whether an inmate’s mental disabilities or mental illness contributed to his or her behavior when determining what type of sanction, if any, should be imposed.
8. MWP offers interventions designed to address and correct underlying reasons or motivations for the abuse. MWP will consider whether to require the inmate to participate in such interventions as a condition of access to programming or other benefits.
9. MWP may discipline an inmate for sexual contact with staff only upon a finding that the staff member did not consent to such contact.
10. For the purpose of disciplinary action, a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred will not constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation.
11. An inmate may not engage in sexual acts, make sexual proposals or threats or engage in indecent exposure pursuant to *DOC 3.4.2 Prohibited Acts* and is subject to disciplinary action for violations. MWP may not, however, deem such activity to constitute sexual abuse if it determines that the activity is not coerced.

IV. CLOSING

Questions concerning this procedure should be directed to the PREA Compliance Manager.

V. ATTACHMENTS

PREA Annual Staffing Plan and Review	RESTRICTED	Attachment A
Pre-Service Staff PREA Orientation Brochure		Attachment B
Staff PREA Training Acknowledgment		Attachment C
Contractor / Volunteer PREA Brochure		Attachment D
Contractor / Volunteer PREA Training Acknowledgement		Attachment E
Inmate PREA Brochure End The Silence		Attachment F
Inmate 30 Day PREA Training Acknowledgement		Attachment G
PREA Risk Assessment		Attachment H
Coordinated Response Plan	RESTRICTED	Attachment I
Retaliation Monitoring		Attachment J
Treatment Refusal Form		Attachment K
Request for Mental Health Services		Attachment L
Administrative Investigation Warning		Attachment M
Separation Order Pending Investigation		Attachment N
Return to Work – Case Closed		Attachment O
Investigation Notice for Complainant		Attachment P
Garrity Warning		Attachment Q
PREA Investigation Finding Letter		Attachment R

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PREA Investigation Finding Letter Staff / Inmate Status
Sexual Abuse Incident Review

Attachment S
Attachment T

