



**PINE HILLS CORRECTIONAL FACILITY
PROCEDURE**

Policy:	PHCF 1.1.17 PRISON RAPE ELIMINATION ACT	
Chapter 1:	ADMINISTRATION AND MANAGEMENT	
Section 1:	General Administration	
Effective Date:	April 25, 2007	Page 1 of 23
Revised:	April 6, 2021	
Superintendent Signature:	/s/ Steve Ray Jr.	

I. PROCEDURE

Pine Hills Correctional Facility (Pine Hills) has zero tolerance relating to all forms of sexual abuse and/or sexual harassment in accordance with the standards set forth in the *Prison Rape Elimination Act (PREA) of 2003*.

II. APPLICABILITY

All Department divisions, facilities, and programs.

III. DEFINITIONS

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

Administrator - The Superintendent or designee ultimately responsible for facility operation and management.

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.

Chief of Security - The person responsible for facility security operations.

Department Employee (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.

Exigent Circumstances - Any set of temporary and unforeseen circumstances that require immediate action in response to a security or safety threat to the facility.

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 Resident (Offender/Inmate) - An individual detained at the facility that is sentenced or committed to the Department of Corrections.

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 disorders of sex 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 device.

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

Law Enforcement Agency of Jurisdiction (LEAJ) – The Custer County Sheriff’s Office or Miles City Police Department, operating within their defined area of responsibility.

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, resident education, and records and statistical tracking.

PREA Compliance Manager (PCM)- A facility position with sufficient time and authority to coordinate the facility’s efforts to comply with the PREA standards.

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

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

Security Unit Shift Supervisor (Security-USS) - Mid-level facility manager responsible for security operations and staffing.

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

Sexual Abuse of a Resident by Another Resident – Sexual acts, sexual contact or any other intentional touching, either directly, through the clothing or with an object, of or with 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 a Resident 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 a resident, 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 a Resident by Another Resident – Repeated and unwelcomed sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one resident directed toward another resident.

Sexual Harassment of a Resident by an Employee or Service Provider – Repeated verbal comments or gestures of a sexual nature to an offender 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 a resident by an employee or service provider for reasons unrelated to official duties.

IV. DIRECTIVES

A. General Requirements

1. This facility 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 facility.
2. The Superintendent, or designee, will immediately respond to allegations of sexual abuse and sexual harassment, ensure the facility fully investigates reported incidents, pursue disciplinary action, and refer for investigation those who violate the requirements set forth in this procedure.
3. The Superintendent, or designee, will assign a PREA Compliance Manager responsible for the following:
 - a. coordinating facility PREA-related activities with the Department PREA Coordinator;
 - b. ensuring facility compliance with all PREA standards;
 - c. ensuring facility compliance with PREA training requirements; and

- d. tracking and reporting PREA allegations and statistics to the Department PREA Coordinator.
4. Cross-gender unclothed searches for all residents is strictly prohibited. Staff trained in searches may conduct cross-gender clothed searches on adult residents. Cross-gender clothed searches of youth residents will not be conducted unless in exigent circumstance. In the event a cross-gender clothed search is conducted on a youth it will be documented in writing and routed to the area manager, PREA Compliance Manager, and Superintendent or designee.
5. Staff will ensure residents are able to shower, perform bodily functions, and change clothing without non-medical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except when such viewing is incidental to routine cell checks or in exigent circumstances. Exigent circumstances must be documented in writing and routed to the area manager, PREA Compliance Manager, and Superintendent or designee.
6. Staff of the opposite gender are required to announce their presence when entering a housing unit per Post Order SEC-30 Cross-Gender Announcement.

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. When planning any substantial expansion or modification of the facility, the facility and the department must consider the effect of the design, acquisition, expansion, or modification upon the facility's and department's ability to protect residents from sexual abuse. The PCM must be notified at the beginning of any planning phase for expansions or modifications.
3. When installing or updating a video monitoring system, electronic surveillance system, or other monitoring technology, the facility and department must consider how such technology may enhance the facility's and department's ability to protect residents from sexual abuse. The PCM must be notified at the beginning of any planning phase for installing or updating technology.
4. The department 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 resident pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted.
5. The Superintendent, in consultation with the PCM and any other staff deemed appropriate, will develop, document, and make best efforts to comply on a regular basis with a staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring, to protect residents against abuse. In circumstances where the staffing plan is not complied with, Chief of Security (or designee) will immediately document and justify all deviations from the staffing plan in writing and provide this documentation to the facility Superintendent and PREA Compliance Manager.
6. The Superintendent will review the staffing plan annually, in consultation with the PREA

Coordinator, to assess and document whether adjustments are needed to:

- a. The staffing plan & prevailing staffing patterns;
 - b. The facility's deployment of video monitoring systems and other monitoring technologies; and
 - c. The resources the facility has available to commit to ensure adherence to the staffing plan.
7. The Superintendent will conduct random unannounced rounds, and will require the Deputy Superintendent, PREA Compliance Manager, Program Managers, Unit Managers, Compliance Specialist, Chief of Security, SEC-USS and security designees to conduct random unannounced rounds to identify and deter employee or service provider sexual abuse and sexual harassment. These rounds must be documented in an unannounced rounds log and cover all shifts and all areas of the facility. Staff are prohibited from alerting others of the conduct of such rounds.
 8. The facility will identify, assess, and manage residents 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*.
 9. Transgender and intersex residents will be given the opportunity to shower separately from other residents either through physical separation by separate shower stalls, or by time-phasing the scheduling of showers.
 10. Pine Hills will not place lesbian, gay, bisexual, or transgender or intersex residents in dedicated facilities, units, or wings solely on the basis of such identification or status.
 11. Victims of sexual abuse and residents at high risk for sexual victimization will not be placed in segregated housing for protective purposes unless an assessment completed by the Mental Health Services Manager (or designee) in consultation with the Chief of Security (or designee) that all available alternatives has been considered, and a determination is made that there is no alternative means of separation. If the facility cannot conduct such an assessment immediately, the facility may hold the resident in segregated housing for up to 24 hours while completing the assessment. The Mental Health Services Manager (or designee) will document in writing the basis for the facility's concern for the resident's safety and the reason no alternative means of separation could be arranged. This document will be routed to the PREA Compliance Manager.
 - a. Segregated residents will maintain access to legally required educational programming, special education services and receive not less than one hour of large muscle exercise daily.
 - b. The facility Mental Health Services Manager (or designee) in conjunction with the unit Program Manager and/or Unit Manager will review each resident placed in segregated housing for protective purposes every 7 days. Weekly reviews, as with the initial justification, for the continuation of segregation or determination to end segregation must be documented in writing and include a statement regarding the basis for

concern for the resident's safety and the reason(s) why an alternative means of separation can or cannot be arranged. This document will be routed to the PREA Compliance Manager.

12. Residents placed in segregated housing for protective purposes will have access to programs, privileges, education, and work opportunities to the extent possible. If access is restricted the facility will document what opportunities have been limited, the duration of the limitation and the reasons for such limitations.
13. Employees must immediately disclose any misconduct and self-report criminal charges and convictions to their immediate supervisor and the Human Resource Specialist; and the Human Resource Specialist will ensure that employees and service providers complete initial and recurrent criminal and child abuse registry checks as required in *DOC 1.3.55 Criminal Conviction in Employment*

C. Training

1. Prior to working with residents, all employees with direct and/or incidental contact with residents, which includes visual, physical, or audio contact, must receive documented PREA training and sign the *Staff Comprehensive PREA Training Acknowledgment form*. If the employee is unable to attend comprehensive PREA classroom training prior to contact with residents, they must receive pre-service training in the form of reviewing the PREA policy, PREA brochure, and signing the acknowledgement form. 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 Policy 1.1.17 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 zero tolerance policy for sexual abuse and sexual harassment;
 - c. how employees and service providers fulfill their responsibilities under Department sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures;
 - d. a resident's right to be free from sexual abuse and sexual harassment;
 - e. resident and employee rights to be free from retaliation for reporting sexual abuse and harassment;
 - f. the dynamics of sexual abuse in confinement;
 - g. the common reactions of sexual abuse and sexual harassment victims;
 - h. how to detect and respond to signs of threatened and actual sexual abuse and sexual harassment;
 - i. how to avoid inappropriate relationships with resident;
 - j. how to communicate effectively and professionally with residents who identify as lesbian, gay, bisexual, transgender, intersex, (LGBTI) or gender nonconforming; and
 - k. how to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities;
 - l. facility procedures on sharing confidential information;

- m. gender-specific information/training tailored to the gender of the residents at the facility.
 - n. Relevant laws regarding the applicable age of consent and the facility prohibition of consensual sexual activity.
 - o. how to conduct cross-gender clothed searches and searches of transgender and intersex residents in a professional and respectful manner and in the least intrusive manner possible, consistent with security needs.
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 visual, physical, or audio contact with residents will be trained at a minimum on the Department's zero tolerance policy concerning sexual abuse and sexual harassment, prevention, detection, and response methods and how to report such incidents. 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 residents and could rise to the level of employee training referenced in C.2 above. Volunteers and service providers will sign a training acknowledgement form.
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.

D. Resident Education

1. Within 2 hours of facility intake for residents, employees will document receipt and education on the Orientation Check List that they have provided the resident with a copy of the PREA resident pamphlet "What you should know about sexual abuse and sexual harassment" and communicated to the resident, verbally and in writing:
 - a. information about the Department'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 1.3.12 Staff Association and Conduct with Offenders*, *DOC 3.3.3 Offender Grievance Program*, and corresponding procedures for filing grievances.

2. Within 30 days of intake the facility will provide education to residents either in person or through video regarding their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents, and regarding facility procedures for reporting and responding to such incidents.
3. Residents will receive PREA intake education upon transfer from a different facility.
4. The facility will take appropriate steps to ensure residents with disabilities have an equal opportunity to participate in or benefit from all aspects of the facility'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. The facility will provide residents education in formats accessible to all residents, including those who are limited English proficient, deaf, visually impaired, or otherwise disabled, as well as to residents who have limited reading skills.
 - a. when contracted interpretive services are employed for this purpose (i.e. for resident screening, resident education, investigation etc.), the employee facilitating the interpretive session will document the event in writing and forward this summary to the facility PREA Compliance Manager (contact information for interpretive services are located on the SART checklist. .
5. The facility will maintain documentation of resident participation in PREA education sessions and have residents sign a *PREA Education Acknowledgment form*. This form will be placed in the resident's master file.
6. The facility will ensure that PREA information is continuously and readily available or visible to residents through posters, resident handbooks, or other written formats.

E. Screening for Risk of Victimization or Abusiveness

1. Intake staff will conduct a risk assessment of all residents using an objective screening instrument for victimization or abusiveness within 2 hours of intake into the facility using the PREA risk Assessment. Information obtained during intake screening and subsequent risk assessments shall be used to make housing, bed, program, education, and work assignments for residents on a case-by-case basis with the goal of keeping all residents safe and free from sexual abuse. Using the identification of a resident as gay, bisexual, transgender or intersex (LGBTI) as an indicator of likelihood of being sexually abusive is prohibited, nor shall such residents be placed in particular housing, bed, or other assignments solely on the basis of such identification or status.
 - a. Intake staff will interview and evaluate all residents for Sexual Predatory Behavior or Victim tendencies utilizing the PREA Risk Assessment approved by the Department of Corrections PREA Coordinator. Information shall be ascertained through conversation with the resident during the intake process, medical and mental health screenings; classification assessments; and by reviewing court records, case files, behavioral records, and other relevant documentation. The completed predictor scale will be filed in their clinical file.
 - b. When the assessment indicates the resident is a known victim/abuser or a potential victim/abuser, the screening officer will notify the Chief of Security, SEC-USS (or

- designee), housing unit, medical, and mental health staff prior to transitioning the resident from intake to the designated housing unit. This information will also be forwarded to the facility PREA Compliance Manager.
- c. If the screening indicates that a resident has experienced prior sexual victimization or has previously perpetrated sexual abuse whether it occurred in an institutional setting or in the community, the Mental Health Service Manager (or designee) shall ensure that the resident is offered a follow-up meeting with a mental health professional within 14 days of the intake screening.
 - 1) This meeting will be documented in case notes in addition a copy of the note will be provided to the Facility PREA Compliance Manager.
2. Within 30 days of intake clinical staff will reassess the resident's risk of victimization or abusiveness, taking into consideration any additional relevant information received by the facility since the initial screening.
 - a. Youth: within 30-day assessments will be completed by assigned mental health staff during the development of the resident's treatment plan, ,
 - b. Adult: within 30 days of the resident's arrival at the facility the Mental Health Services Manager (or designee) will ensure a reassessment of the resident's risk of victimization or abusiveness based upon any additional relevant information received by the facility since intake screening.
 - c. If the screening indicates that a resident has experienced prior sexual victimization or has previously perpetrated sexual abuse whether it occurred in an institutional setting or in the community, the Mental Health Service Manager (or designee) shall ensure that the resident is offered a follow-up meeting with a mental health professional within 14 days of the intake screening.
 - 1) This meeting will be documented in case notes in addition a copy of the note will be provided to the Facility PREA Compliance Manager.
 3. The facility will conduct additional screening assessments for residents whenever warranted based on any new information, referral, request, or incident of sexual abuse.
 4. The screening instrument considers, at a minimum, the following criteria for risk of sexual victimization:
 - a. whether the resident has a mental, physical, or developmental disability;
 - b. the age of the resident;
 - c. the physical build of the resident;
 - d. whether the resident has previously been incarcerated;
 - e. whether the resident's criminal history is exclusively nonviolent;
 - f. whether the resident has prior convictions for sex offenses against an adult or child;
 - g. whether the resident is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming;
 - h. whether the resident has previously experienced sexual victimization; and
 - i. the residents' own perception of vulnerability.

5. 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 resident's risk for being sexually abusive.
6. Residents will not be disciplined for refusing to answer, or for not disclosing complete information in response to, questions asked during screening or reassessment.
7. 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 residents at high risk of being sexually victimized from those at high risk of being sexually abusive.
8. In deciding whether to assign a transgender or intersex resident to a facility, and in making other housing and programming assignments, the facility will consider on a case-by-case basis the placement's effect on the resident's safety, whether the placement would present management or security problems, and whether such placement would likely endanger the safety of other residents.
9. 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 residents based on their review of all relevant information.
 - a. The review committee will conduct an individual assessment of each transgender and intersex offender 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 offender 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.
10. The Mental Health Services Manager (or designee) in conjunction with the unit Program Manager, Unit Manager, and medical, education and vocation staff (as warranted for the individual) will reassess placement and programming assignments for each transgender or intersex resident at least twice each year to review any threats to safety experienced by the resident. A transgender or intersex resident's own view with respect to his or her own safety will be given serious consideration. The completed assessment will be documented in writing by the Mental Health Services Manager (or designee), placed in the residents clinical file and a copy sent to the facility PREA Compliance Manager.

F. Resident Reporting

1. Residents who are victims of or have knowledge of sexual abuse or sexual harassment, retaliation by other residents or employees for reporting sexual abuse and sexual

harassment, and employee neglect or violation of responsibilities that may have contributed to such incidents 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. utilize the “locked box” formal grievance procedure in accordance with *PHCF 3.3.3 Grievance Program*;
 - c. use the inmate phone system and follow the instructions near the phone to leave a message for the PREA Compliance Manager (or designee)
 - d. contact the external agency listed on PREA posters and brochures that are posted and available throughout the facility;
 - 1) Letters should be sent to:
New Mexico Corrections Department
PREA Coordinator
4337 State Road 14
Santa Fe, NM 87508
 - 2) The envelope must be marked “Legal” or “Privileged”. Residents may ask to remain anonymous in the letter.
2. Information on how to report sexual abuse and sexual harassment will be posted in the facility.
 3. The mailing address and telephone numbers to make reports will be posted next to phones accessible by residents.
 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 residents or other parties, will result in disciplinary action and/or criminal charges.

G. Resident Advocacy Services

1. Advocacy services provided by the outside agency CNADA (Custer Network Against Domestic Abuse) and are confidential support services provided free of charge. These services may be reached by:
 - a. calling 406-951-0475, these calls are not monitored.
writing a letter to CNADA (letters are confidential if the envelope is clearly marked with “Legal” or “Privileged”):

CNADA

2200 Box Elder Street STE #135

Miles City MT 59301

H. First Responder Duties

1. Upon learning of an allegation that a resident was sexually abused, the first security staff to respond to the report will follow and complete the *First Responder Checklist* which includes the following:
 - a. separate the alleged victim and alleged perpetrator;

- b. intervene on the victim's behalf to ensure prompt medical and psychological assistance including an assessment for potential risk of suicide;
 - c. 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*;
 - d. 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 do not take any actions that could destroy physical evidence such as washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating.
2. Document the situation in compliance with this procedure, including the date/time the staff learned the resident is subject to a substantial risk of imminent sexual abuse and the amount of time that passed before enacting protective measures.
 3. If the first employee or service provider to learn of an allegation that a resident 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 the Chief of Security, Security Unit Shift Supervisor (or designee).
 4. The facility 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.

I. Employee and Service Provider Reporting

1. Employees and service providers must accept reports of sexual abuse and sexual harassment they receive verbally, in writing, anonymously and/or from third parties.
2. Employees and service providers will immediately report any knowledge, suspicion, or information they receive regarding an incident of any type of abuse or harassment to the Superintendent (or designee) and PREA Compliance Manager.
3. Staff will immediately report to the Superintendent (or designee) and facility PREA Compliance Manager (or designee) any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment at Pine Hills or while the resident was confined in another facility; retaliation against residents or employees who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.
4. Employees and service providers may privately report sexual abuse and sexual harassment of residents through their chain of command to the Chief of Security, SEC-USS, PREA Compliance Manager or Department PREA Coordinator, HR Specialist, Department Office of Investigations, and/or the Superintendent or designee.
5. Employees are mandatory reporters and must report abuse according to state abuse reporting laws.
6. If the alleged victim is a resident (under the age of 18): upon receiving any allegation of

sexual abuse, the Superintendent, or designee, must report the allegation to:

- a. the DOC Director or Deputy Director;
 - b. the Department of Public Health and Human Services in accordance with *41-3-201, MCA*.
 - c. the Superintendent (or designee, normally the assigned caseworker or designated mental health staff) shall:
 - 1) promptly report the allegation to the alleged victim's parents or legal guardians, unless the facility has official documentation showing the parents or legal guardians should not be notified.
 - 2) if the alleged victim is under the guardianship of the child welfare system, the report shall be made to the alleged victim's caseworker instead of the parents or legal guardians.
 - 3) if a juvenile court retains jurisdiction over the alleged victim, the Superintendent (or designee) shall report the allegation to the youth's attorney or other legal representative of record within 14 days of receiving the allegation.
 - d. All reports made under this section will be documented in writing. The report will include at a minimum, the date and time of notification and the contact's name. Completed reports shall be forwarded to the facility PREA Compliance Manager.
7. If the alleged victim is at least 60 years old or is a person with a developmental disability, the Superintendent (or designee) must report the allegation to the Department of Public Health and Human Services in accordance with *52-3-811, MCA*. This report shall be documented in writing. The report will include at a minimum, the date and time of notification and the contact's name. Completed reports shall be forwarded to the facility PREA Compliance Manager
8. Apart from reporting to designated supervisors and officials, employees and service providers will not reveal any information related to an instance or report of sexual abuse or sexual harassment to anyone other than those with a bona-fide need to know in order to make treatment, investigation and other security or management decisions required to ensure the welfare and safety of residents.
9. Unless otherwise precluded by law, medical and mental health practitioners will report sexual abuse according to facility procedures and will inform residents of their duty to report, and the limitations of confidentiality, at the initiation of services.
10. Allegations that a resident was sexually abused while at another facility must be reported by the Superintendent or designee 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 resident of a youth facility the administrator will also notify the appropriate investigative agency.
- a. When a report is made by phone the date and time will be documented and a supplemental written notice mailed to the administrator where the abuse occurred.
 - b. Written documentation of the call and a copy of the written notice will be routed to the PREA Compliance Manager.

11. Potential criminal conduct will be reported the Office of Investigations. The Office of Investigations has primary jurisdiction over a facility's criminal investigations.
12. The Superintendent (or designee, i.e. Chief of Security, SEC-USs) will report immediately any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment in accordance with *DOC Policy 1.1.6 Priority Incident Reporting and Acting Director System*. Emergent cases where a sexual abuse occurred within the last 72 hours and/or physical evidence may be present will be reported to the on-call investigator immediately.
13. Reports of sexual abuse or sexual harassment by an employee, service provider, or resident will be immediately forwarded to the Superintendent (or designee), and PREA Compliance Manager. The Superintendent (or designee) will ensure the Office of Investigations, and the Department PREA Coordinator are notified within one business day.
14. 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.

J. Retaliation Monitoring

1. Residents and employees have the right to be free from retaliation for reporting sexual abuse and sexual harassment. Pine Hills will not tolerate retaliation against residents, employees, or other parties for reporting sexual abuse or sexual harassment or cooperating with an investigation. Individuals that retaliate against any resident or witness are subject to disciplinary action.
2. Employees who report sexual abuse or sexual harassment of a resident 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. Pine Hills employs multiple protective measures, such as unit transfers or program removal/reassignment to separate victims from abusers, and emotional support services for residents and staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations.
4. The facility will monitor, for at least 90 days, the conduct and treatment of residents and employees who reported sexual abuse or sexual harassment, residents who were reported to have suffered sexual abuse or sexual harassment to prevent retaliation and any individual (employee or resident) who cooperates with a sexual abuse or sexual harassment investigation and expressed a fear of retaliation. Monitoring will continue beyond 90 days if there is a continuing need.
 - a. employee retaliation monitoring is coordinated by the facility Human Resources Officer in conjunction with the employee's chain-of-command supervisor/manager (i.e. Unit Manager, Program Manager, Principal, etc.). They will assess the conduct and treatment of the employee to see if there are changes that may suggest possible retaliation by residents or staff. Monitoring staff shall also conduct periodic (weekly),

in-person status checks with the employee. All monitoring efforts shall be documented in writing and maintained by the Human Resources Officer and available to the PREA Compliance Manager.

- b. Resident retaliation monitoring is coordinated by the Mental Health Services Manager (or designee) in conjunction with the resident's assigned caseworker. They will assess the conduct and treatment of the resident including review of the resident's disciplinary reports, housing or program logs, programmatic changes and the reassignments of employees to see if there are changes that may suggest possible retaliation by residents or staff. This monitoring shall also include periodic (weekly), in-person status checks. All monitoring efforts shall be documented in writing and forwarded to the PREA Compliance Manager.
 - c. Should a resident or employee monitoring team detect retaliation, they will immediately report their finding to the Superintendent (or designee) and the PREA Compliance Manager. The Superintendent (or designee) will act promptly to remedy any detected retaliation. This corrective action will be documented in writing and forwarded to the PREA Compliance Manager.
5. If a resident is transferred from Pine Hills to another Department facility during his monitoring, the Mental Health Services Manager (or designee) will notify the receiving facility of the resident's monitoring status so the receiving facility may continue the monitoring for the remainder of the 90 days, or beyond if there is a continuing need. A copy of this notification will be forwarded to the PREA Compliance Manager.
 6. The facility's obligation to monitor retaliation may be terminated if the allegation is determined to be unfounded.

K. Medical, Mental Health, and Victim Services

1. Medical and mental health services for victims will be consistent with the community level of care.
2. Victims of sexual abuse will receive timely, unimpeded access to emergency medical treatment and crisis intervention services, to the level determined necessary by medical and mental health professionals. 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 STD tests, prophylaxis, and
 - d. access to medical examination and treatment to include follow up care and referrals;
 - e. mental health crisis intervention and treatment;
 - f. 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; contact information for these services is available to staff within the facility SAR (Sexual Assault Response) checklist and Facility Coordinated response plan and available to residents on postings within the housing units.
3. Facility 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 *Medical Treatment Refusal* form;
 - 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 Holy Rosary Hospital, a medical facility equipped with medical personnel certified as 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 contact Custer Network Against Domestic Abuse (CNADA) so they may offer victim advocacy services on site; and
 - c. if reported more than 72 hours after the incident, and with the victim's permission, adhere to the following:
 - 1) 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;
 - 2) upon request from law enforcement or the Office of Investigations, transport the victim to Holy Rosary Health Care for evidence.
4. Mental Health Services Manager (or designee) will provide crisis intervention and ongoing services for victims of sexual abuse and sexual harassment and for other residents affected.
 5. Facilities will attempt to conduct a mental health evaluation of all known resident-on-resident abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate by qualified mental health professionals.
 6. The facility provides residents with access to outside victim advocates for emotional support services related to sexual abuse by giving residents mailing addresses and telephone numbers of local, state, or national victim advocacy or rape crisis organizations.
 - a. The facility enables reasonable communication between residents and these organizations in as confidential a manner as possible (as per PHCF 3.3.6 Resident Correspondence)
 - b. The facility informs residents, prior to giving them access of the extent to which such communications will be monitored and the extent to which reports of abuse will be forwarded to authorities (posted in housing units, by the inmate phone).

L. Investigative Protocols

1. Reported incidents of sexual abuse and sexual harassment will be investigated. Criminal investigations will be conducted by the Law Enforcement Agency of Jurisdiction or Department's Office of Investigations in accordance with *DOC Policy 3.1.19 Investigations*.

2. The Chief of Security (or designee) will ensure that all staff will follow appropriate security procedures to secure locations and other physical evidence as outlined in *DOC Policy 3.1.28 Crime Scene and Physical Evidence Preservation*.
3. After receipt of a report of potential sexual abuse or sexual harassment, the Superintendent (or designee) or PREA Compliance Manager (or designee) will promptly send a Request for Investigation (RFI) to the Office of Investigations 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 and/or the appropriate administrator, or designee, to open and administrative investigation. For cases involving employees, the Office of Investigations will also notify the 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.
6. Investigations of resident 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.
 - a. Individuals assigned to conduct administrative investigations of employees will work in cooperation with Human Resources and be trained in all specialized investigative training topics relevant to confined settings, sexual abuse and interviewing youth.
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 a resident or employee.
10. Residents 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. The facility will not rely on resident interpreters for investigations regarding sexual abuse or sexual harassment, except in limited circumstances where an extended delay in obtaining an interpreter could compromise the resident's safety, the performance of first-response duties or the investigation of the resident's allegations.
 - a. The use of resident interpreters in such exigent circumstances will be documented immediately by the staff person facilitating the interpretive session and this document shall be routed to the PREA Compliance Manager.

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 Administrative Investigation Warning* 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* will be issued to the alleged staff member at the time of the allegation. *The Return to Work – Case Closed* form will be given to the staff member at the end of the investigation when the allegation is unfounded or unsubstantiated.
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*.
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*
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.
 - a. Substantiated allegations of conduct that appear to be criminal shall be referred for prosecution
18. The Administrator or designee must 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 designated investigative

case file. Investigative case files must be submitted to the Investigations Manager or designee, 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
 - a. Regardless of the source, reports of potential sexual abuse and sexual harassment will be investigated in complete accordance with PREA standards and investigation shall not be terminated because the source of the allegation recants, or because the focus of the investigation is released from custody or leaves employment with the facility or Department.
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

M. Reporting to Residents

1. Following an investigation into a resident's allegation of sexual abuse or sexual harassment in the facility, the PREA Compliance Manager (or designee) will inform the resident as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded.
2. If the investigation is conducted by a LEAJ, the PREA Compliance Manager (or designee) will request relevant information from the LEAJ in order to inform the resident.
3. Following a resident's allegation that an employee or service provider has committed sexual abuse against the resident, the PREA Compliance Manager (or designee) will inform the resident, unless the allegation is unfounded whenever:
 - a. the employee or service provider is no longer posted within the resident's unit;
 - b. the employee or service provider is no longer employed at the facility;
 - c. the facility learns that the employee or service provider has been indicted on a charge related to sexual abuse within the facility; or
 - d. the department learns that the employee or service provider has been convicted on a charge related to sexual abuse within the facility.
4. Following a resident's allegation of sexual abuse by another resident, the PREA Compliance Manager (or designee) shall inform the alleged victim whenever:
 - a. the facility learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility; or
 - b. the facility learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility.

5. All such notifications or attempted notifications shall be documented by the PREA Compliance Manager.
6. The facility's obligation to report under this standard shall terminate if the resident is released from the Department's custody.

N. Incident Reviews

1. The facility 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 30 days of the conclusion of the investigation.
2. The review team will include the Superintendent (or designee), facility PREA Compliance Manager (or designee), the investigator(s), Medical Services Manager (or designee), the Mental Health Services Manager (or designee), and other staff or supervisors with direct involvement as warranted.
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 or program;
 - 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 Superintendent, the Department PREA Coordinator and facility PREA Compliance Manager.
4. Within 90 days after receiving the final report, the facility will implement the recommendations for improvement or document its reasons for not doing so in a corrective action report. This report will be submitted to the Superintendent, the Department PREA Coordinator and facility PREA Compliance Manager.

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

1. The PREA Compliance Manager will maintain records and collect data from all sexual abuse or sexual harassment allegations, incidents, investigations, and incident reviews within the facility. Data will be analyzed to determine possible corrective action or improvement. The PREA Compliance Manager will report collected data to the Department PREA Coordinator.
2. The PREA Compliance Manager will collect accurate, uniform data for every allegation of sexual abuse and sexual harassment in the facility using a standardized instrument and the definitions set forth in this procedure.

3. This 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 facility will maintain records of all administrative investigations of sexual abuse and sexual harassment at that facility. Records will include information on the outcome of any criminal or disciplinary charges.
5. The facility 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.

P. Sanctions

1. Employees who violate this policy are subject to administrative discipline including termination of employment, criminal sanctions, or both. Termination is the presumptive disciplinary sanction for employees who have engaged in sexual abuse.
2. Disciplinary sanctions for violations of Department policies relating to sexual abuse or sexual harassment (other than 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 residents and will be reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies. The Department will take appropriate remedial measures and will consider whether to prohibit further contact with residents, in the case of any other violation of Department sexual abuse or sexual harassment policies by a service provider.
5. A resident may be subject to disciplinary sanctions pursuant to a formal disciplinary process following an administrative finding that the resident engaged in resident-on-resident sexual abuse or following a criminal finding of guilt for resident-on-resident sexual abuse.
 - a. In the event a disciplinary sanction for resident on resident sexual abuse results in the isolation of a resident the following must be provided to the sanctioned resident:
 - 1) Not less than one-hour daily access to large muscle exercise
 - 2) Legally required educational programming and special education services
 - 3) Documented daily visits from medical staff
 - 4) Documented daily visits from mental health care workers which include therapy, counseling or other interventions intended to address and correct the resident's underlying reason(s) or motivation(s) for committing sexual abuse.

- 5) Access to work opportunities and other programming to the greatest extent possible
 - b. When providing or offering the sanctioned resident therapy, counseling or other interventions the facility shall consider whether to require the resident to participate in such interventions as a condition of access to any rewards-based behavior management system or other behavior-based incentives.
 - 1) Access to general programming or educational services shall not be made conditional upon participation in such behavior-based incentives.
6. Sanctions will be commensurate with the nature and circumstances of the abuse committed, the resident's disciplinary history, and the sanctions imposed for comparable offenses by other residents with similar histories.
7. The disciplinary process will consider whether a resident's mental disabilities or mental illness contributed to his or her behavior when determining what type of sanction, if any, should be imposed.
8. A resident may be subject to disciplinary sanctions for sexual contact with staff only upon finding that the staff member did not consent to such contact.
9. Residents will not be sanctioned for a report of sexual abuse or sexual harassment made in good faith based upon a reasonable belief the alleged conduct occurred, even if subsequent investigation does not establish evidence sufficient to substantiate the allegation.
10. A resident 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. The facility may not, however, deem such activity to constitute sexual abuse if it determines that the activity is not coerced.

V. CLOSING

Questions concerning this procedure should be directed to the facility Superintendent.

VI. REFERENCES

- A. 41-3-201, MCA; 45-5-501, MCA; 45-5-502, MCA; 45-5-503, MCA
- B. 4-4281-1 through 4-4281-8; 2008 ACA Standards Supplement
- C. *Prison Rape Elimination Act of 2003*
- D. *DOC Policies 1.1.16 Priority Incident Reporting and Acting Director System; 1.5.5 Case Records Management; 1.3.12 Staff Association and Conduct with Offender; 1.8.1 Victim Services; 3.1.19 Investigations; 3.3.3 Offender Grievance Program; 4.1.2 Offender Reception and Orientation; 4.2.1 Offender Classification System; 4.2.2 Special Needs Offenders*

VII. ATTACHMENTS

- A. [Contactor/Volunteer Acknowledgement and Disclosure Form](#)
- B. [First Responders Checklist Form](#)
- C. [Garrity Warning Form](#)

- D. [Interviewee Administrative Investigation Warning Form](#)
- E. [Investigation Notice for Complainant Form](#)
- F. [Medical Treatment Refusal Form](#)
- G. [PREA Coordinated Response Plan](#)
- H. [PREA Risk Assessment Form](#)
- I. [PREA Risk Assessment Guide](#)
- J. [PREA Risk Assessment Instructions](#)
- K. [Resident PREA Education Acknowledgment Form](#)
- L. [Resident PREA Intake Acknowledgement Form](#)
- M. [Return to Work Investigation Closed Form](#)
- N. [Separation Order Pending Investigation Form](#)
- O. [SAR Checklist Form](#)
- P. [Staff Comprehensive PREA Acknowledgement Form](#)
- Q. [Volunteer/Contractor/Vendor PREA Acknowledgement Form](#)