

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

Interim Final

Date of Report 10/17/2019

Auditor Information

Name: Beth Schubach **Email:** blschubach1@doc1.wa.gov

Company Name: Washington State Department of Corrections

Mailing Address: PO Box 41131 **City, State, Zip:** Olympia WA 98504

Telephone: 360-725-8789 **Date of Facility Visit:** 09/04-06/2019

Agency Information

Name of Agency: **Governing Authority or Parent Agency (If Applicable):**

Montana Department of Corrections State of Montana

Physical Address: 5 South Last Chance Gulch **City, State, Zip:** Helena MT 59601

Mailing Address: same **City, State, Zip:** same

The Agency Is: Military Private for Profit Private not for Profit

Municipal County State Federal

Agency mission: The Montana Department of Corrections enhances public safety, supports the victims of crime, promotes positive changes in offender behavior, and reintegrates offenders into the community.

Agency Website with PREA Information: <https://cor.mt.gov/PREA>

Agency Chief Executive Officer

Name: Reginald Michael, Director

Email: reginald.michael@mt.gov **Telephone:** 406-444-4913

Agency-Wide PREA Coordinator

Name: Michele Morgenroth, PREA Coordinator

Email: MMorgenroth@mt.gov **Telephone:** 406-444-6583

PREA Coordinator Reports to: Kurt Aughney, Quality Assurance Director	Number of Compliance Managers who report to the PREA Coordinator 3
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Facility Information

Name of Facility: Montana Women’s Prison

Physical Address: 701 S. 27th Street, Billing MT 59101

Mailing Address (if different than above): same

The Facility Is:	<input type="checkbox"/> Military	<input type="checkbox"/> Private for profit	<input type="checkbox"/> Private not for profit
<input type="checkbox"/> Municipal	<input type="checkbox"/> County	<input checked="" type="checkbox"/> State	<input type="checkbox"/> Federal

Facility Type: Jail Prison

Facility Website with PREA Information: <https://cor.mt.gov/PREA>

Has the facility been accredited within the past 3 years? Yes No

If the facility has been accredited within the past 3 years, select the accrediting organization(s) – select all that apply (N/A if the facility has not been accredited within the past 3 years):

ACA

NCCHC

CALEA

Other (please name or describe): [Click or tap here to enter text.](#)

N/A

If the facility has completed any internal or external audits other than those that resulted in accreditation, please describe:
DOJ PREA audit final reports dated 08/31/2016 and 02/03/2018; also internal self-audits to assess compliance and prepare for this DOJ audit

Warden/Jail Administrator/Sheriff/Director

Name: Jennie Hansen, Warden

Email: JHansen2@mt.gov **Telephone:** 406-247-5112

Facility PREA Compliance Manager

Name: Jessica Sosa, PREA Compliance Manager

Email: JSosa@mt.gov **Telephone:** 406-247-5121

Facility Health Service Administrator N/A

Name: Ben Fry, Medical Health Services Manager

Email: Benjamin.Fry@mt.gov **Telephone:** 406-247-5105

Facility Characteristics

Designated Facility Capacity: 212	
Current Population of Facility: 217	
Average daily population for the past 12 months: 223	
Has the facility been over capacity at any point in the past 12 months?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Which population(s) does the facility hold?	<input checked="" type="checkbox"/> Females <input type="checkbox"/> Males <input type="checkbox"/> Both females and males
Age range of population:	21 - 67
Average length of stay or time under supervision:	15.3 months
Facility security level/inmate custody levels:	Minimum 2 (unrestricted), Minimum 1 (restricted), Medium, Close, Maximum
Number of inmates admitted to facility during the past 12 months	188
Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 72 hours or more:	188
Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 30 days or more:	183
Does the facility hold youthful inmates?	No
Number of youthful inmates held in the facility during the past 12 months (N/A if the facility never holds youthful inmates)	Click or tap here to enter text. <input checked="" type="checkbox"/> NA
Does the audited facility hold inmates for one or more other agencies (e.g., a State correctional agency, U.S. Marshals Service, Bureau of Prisons U.S. Immigration and Customs Enforcement)?	No

<p>Select all other agencies for which the audited facility hold inmates. Select all that apply (N/A if the audited facility does not hold inmates for any other agency or agencies):</p>	<ul style="list-style-type: none"> <input type="checkbox"/> Federal Bureau of Prisons <input type="checkbox"/> U.S. Marshals Service <input type="checkbox"/> U.S. Immigration and Customs Enforcement <input type="checkbox"/> Bureau of Indian Affairs <input type="checkbox"/> U.S. Military branch <input type="checkbox"/> State or Territorial correctional agency <input type="checkbox"/> County correctional or detention agency <input type="checkbox"/> Judicial district correctional or detention facility <input type="checkbox"/> City or municipal correctional or detention facility (e.g. police lockup or city jail) <input type="checkbox"/> Private corrections or detention provider <input type="checkbox"/> Other - please name or describe: Click or tap here to enter text. <input checked="" type="checkbox"/> N/A
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Number of staff currently employed by the facility who may have contact with inmates:	88
Number of staff hired by the facility during the past 12 months who may have contact with inmates:	20
Number of contracts in the past 12 months for services with contractors who may have contact with inmates:	6
Number of individual contractors who have contact with inmates, currently authorized to enter the facility:	77
Number of volunteers who have contact with inmates, currently authorized to enter the facility:	245
Physical Plant	
Number of buildings: Auditors should count all buildings that are part of the facility, whether inmates are formally allowed to enter them or not. In situations where temporary structures have been erected (e.g., tents) the auditor should use their discretion to determine whether to include the structure in the overall count of buildings. As a general rule, if a temporary structure is regularly or routinely used to hold or house inmates, or if the temporary structure is used to house or support operational functions for more than a short period of time (e.g., an emergency situation), it should be included in the overall count of buildings.	2
Number of inmate housing units: Enter 0 if the facility does not have discrete housing units. DOJ PREA Working Group FAQ on the definition of a housing unit: How is a "housing unit" defined for the purposes of the PREA Standards? The question has been raised in particular as it relates to facilities that have adjacent or interconnected units. The most common concept of a housing unit is architectural. The generally agreed-upon definition is a space that is enclosed by physical barriers accessed through one or more doors of various types, including commercial-grade swing doors, steel sliding doors, interlocking sally port doors, etc. In addition to the primary entrance and exit, additional doors are often included to meet life safety codes. The unit contains sleeping space, sanitary facilities (including toilets, lavatories, and showers), and a dayroom or leisure space in differing configurations. Many facilities are designed with modules or pods clustered around a control room. This multiple-pod design provides the facility with certain staff efficiencies and economies of scale. At the same time, the design affords the flexibility to separately house inmates of differing security levels, or who are grouped by some other operational or service scheme. Generally, the control room is enclosed by security glass, and in some cases, this allows inmates to see into neighboring pods. However, observation from one unit to another is usually limited by angled site lines. In some cases, the facility has prevented this entirely by installing one-way glass. Both the architectural design and functional use of these multiple pods indicate that they are managed as distinct housing units.	8
Number of single cell housing units:	2
Number of multiple occupancy cell housing units:	6
Number of open bay/dorm housing units:	0
Number of segregation cells (for example, administrative, disciplinary, protective custody, etc.):	22
In housing units, does the facility maintain sight and sound separation between youthful inmates and adult inmates? (N/A if the facility never holds youthful inmates)	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
Does the facility have a video monitoring system, electronic surveillance system, or other monitoring technology (e.g. cameras, etc.)?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

Has the facility installed or updated a video monitoring system, electronic surveillance system, or other monitoring technology in the past 12 months? Yes No

Medical and Mental Health Services and Forensic Medical Exams

Are medical services provided on-site? Yes No

Are mental health services provided on-site? Yes No

Where are sexual assault forensic medical exams provided? Select all that apply.

On-site

Local hospital/clinic

Rape Crisis Center

Other (please name or describe: [Click or tap here to enter text.](#))

Investigations

Criminal Investigations

Number of investigators employed by the agency and/or facility who are responsible for conducting CRIMINAL investigations into allegations of sexual abuse or sexual harassment: 5 agency investigators

When the facility received allegations of sexual abuse or sexual harassment (whether staff-on-inmate or inmate-on-inmate), CRIMINAL INVESTIGATIONS are conducted by: Select all that apply.

Facility investigators

Agency investigators

An external investigative entity

Select all external entities responsible for CRIMINAL INVESTIGATIONS: Select all that apply (N/A if no external entities are responsible for criminal investigations)

Local police department

Local sheriff's department

State police

A U.S. Department of Justice component

Other (please name or describe: [Click or tap here to enter text.](#))

N/A

Administrative Investigations

Number of investigators employed by the agency and/or facility who are responsible for conducting ADMINISTRATIVE investigations into allegations of sexual abuse or sexual harassment? 20 facility investigators

When the facility receives allegations of sexual abuse or sexual harassment (whether staff-on-inmate or inmate-on-inmate), ADMINISTRATIVE INVESTIGATIONS are conducted by: Select all that apply

Facility investigators

Agency investigators

An external investigative entity

Select all external entities responsible for ADMINISTRATIVE INVESTIGATIONS: Select all that apply (N/A if no external entities are responsible for administrative investigations)

Local police department

Local sheriff's department

State police

A U.S. Department of Justice component

Other (please name or describe: [Click or tap here to enter text.](#))

N/A

Audit Findings

Audit Narrative

The auditor's description of the audit methodology should include a detailed description of the following processes during the pre-onsite audit, onsite audit, and post-audit phases: documents and files reviewed, discussions and types of interviews conducted, number of days spent on-site, observations made during the site-review, and a detailed description of any follow-up work conducted during the post-audit phase. The narrative should describe the techniques the auditor used to sample documentation and select interviewees, and the auditor's process for the site review.

Beth Schubach, a U.S. Department of Justice (USDOJ) Certified PREA Auditor for adult and juvenile facilities conducted the Prison Rape Elimination Act (PREA) audit of the Montana Women's Prison (MWP) in Billings, Montana. The on-site review of MWP was conducted September 4 through 6, 2019. MWP is operated by the Montana Department of Corrections (MDOC). The on-site review was conducted with the assistance of support staff Lori Scamahorn. During the audit, Beth Schubach conducted the documentation review, informal interviews with random staff and offenders, a complete tour / inspection of all offender-accessible areas of the facility, formal interviews with random and specialty staff, and authored this report. The Support Team Member conducted a complete tour / inspection of all offender-accessible areas of the facility, a review of select investigation reports, observation of the initial risk assessment process, and formal and informal interviews with random and specialty staff and random and specialty offenders.

The notice of audit posted at MWP stated:

Notice of PREA Audit

During the following period, this facility will be undergoing an audit for compliance with the U.S. Department of Justice's National PREA Standards to Prevent, Detect and Respond to Prison Rape under the Prison Rape Elimination Act (PREA) Standards for Prisons and Jails:

September 4-6, 2019

Any person with information relevant to this compliance audit may confidentially* correspond with the auditor by writing to:

Beth Schubach, WADOC PREA Coordinator
PO Box 41131
Olympia, WA 98504-1131

*CONFIDENTIALITY: All written and verbal correspondence and disclosures provided to the auditor are confidential and will not be disclosed unless required by law. There are exceptions when confidentiality must legally be breached. Exceptions include, but are not limited to:

- If the person is an immediate danger to her/himself or others (e.g., suicide, homicide)
- Allegations of suspected child abuse, neglect or mistreatment;
- In legal procedures where information has been subpoenaed by a court of appropriate jurisdiction.

Any correspondence should be clearly identified as "LEGAL MAIL" and handled per DOC Policy 3.3.6 Offender Mail

Please note that correspondence with the auditor is limited to the course of the audit, which is within 45 days of the completion of the on-site visit noted above.

cc: Facility Mailroom

On July 24, 2019, the Auditor received photographic documentation of the audit notice posting along with a list of posting locations, which included:

- Visiting (inside and out)
- Chapel
- Industries (Work location)
- Medical
- Hallways (multiple)
- Gym
- Library
- Dining Hall
- Kitchen
- Intake
- A POD
- B POD
- C POD
- C POD Day Room
- D POD
- E POD
- F POD
- F POD Day Room
- G POD
- H POD
- 3rd Floor Programming room
- Administration
- Briefing

The accompanying email noted that in most places, the notice was posted in both English and Spanish. While on site, the Audit Team observed the audit notification in various locations throughout the facility, ensuring that facility staff, offenders, and visitors had the opportunity to contact the Auditor. The Auditor received a total of three (3) letters from MWP offenders but not from any other individuals between the posting of the notification and the authoring of this report. The offenders who submitted letters were interviewed during the on-site review along with two (2) additional offenders who requested to speak with the Auditor during the on-site review.

The Auditor exchanged an introductory email with the Warden, PCM, and PREA Coordinator on 07/31/2019. An introductory telephone call with the Warden and PCM was held on August 19, 2019. Included in the discussion was status of documentation review, logistics for the on-site review, facility entrance procedures, and processes for additional document requests.

On March 20, 2019, the Auditor received confirmation from Just Detention International (JDI) that the organization had not received any information regarding PREA allegations or issues regarding offender sexual safety at MWP.

The Auditor received proof documents via a password protected flash drive from the PREA Coordinator and MWP PCM on July 30, 2019. The flash drive contained relevant documentation pertaining to the PREA standards and the audit. This included, but was not limited to, the pre-audit questionnaire (PAQ); agency policies, facility procedures, memorandums of understanding and contracts, offender posters and brochures, and training documentation. In addition, prior to the on-site review, the Auditor exchanged numerous emails with the PCM, PREA Coordinator, and Warden as they related to follow up questions and concerns regarding the received documentation. The Auditor also reviewed the MWP PREA Audit report from the 2016 and 2018 PREA audits, the agency's public website and related PREA information, and the agency's annual PREA reports. Prior to arrival, the Auditor conducted telephone interviews with the Contract Administrator, the Director, SAFE/SANE representatives from the Billings Clinic Hospital and St. Vincent Healthcare, and a representative from the YWCA Billings, the community-based organization providing victim support services to facility offenders.

On Wednesday, September 4, 2019, the on-site team arrived at MWP at 0815. The PCM met the Team and provided escort into the facility. Prior to arrival, Team members submitted information required to conduct the criminal background check required of all visitors and Team members were escorted at all times while inside the facility. Upon entry into public access, Team members were asked to provide proof of identification and were logged into the facility by the Public Access Officer. Team members were also required to clear a metal detector or wand scan and all items carried into the facility were searched. This is the standard process for any individual entering the facility, including staff, contractors, volunteers, and visitors. At 0830, an initial meet and greet was held in the Warden's conference room, attended by the agency PREA Coordinator, Warden, two Associate Wardens, PCM, Human Resources Manager, Disciplinary Hearing Officer, PREA Administrative Investigator, Office of Investigations Criminal Investigator, and agency Quality Assurance Director.

After opening remarks and introductions, the Auditor discussed the logistics of the on-site review and provided an overview of the audit process, to include timelines regarding the post-audit phase of the process, the interim report and the final report. The Auditor briefly discussed the purpose of corrective action which, if warranted, would enhance implementation processes and sustainability, furthering enculturation and creating a safer environment for offenders and staff. Each participant was given an opportunity to ask questions regarding the audit process.

After the meet and greet, the on-site team was provided with a thorough and comprehensive tour of the entire facility, visiting any area in which an offender may be present. The tour was attended by the Warden, PREA Coordinator, PCM, Associate Warden, and Quality Assurance Director. It included, but was not limited to, housing units, medical services, kitchen and dining areas, programming and work areas, warehouses, master control, and recreational areas. The maintenance department was not toured as it is outside the secure perimeter and offenders are never permitted access to this area. While touring, the Team paid particular attention to lines of site, privacy for offenders in specified areas, PREA reporting and victim advocacy posters, door and key security, offender movement, and staff and offender interactions. The Team also engaged in informal discussions with staff and offenders while touring. Throughout the tour, male staff announced themselves when entering housing units. Several versions of posters containing PREA information along with posters detailing advocacy services were observed throughout the facility.

It was noted that offenders wearing yellow shirts are permitted to work outside the main building (remaining inside the secure perimeter); offenders wearing orange shirts are working, and general offender attire is a maroon shirt. All offenders wear khaki pants.

The facility is comprised of the following areas:

The Administration area of the facility houses offices of the Warden, Associate Wardens, Program Manager, Disciplinary Hearing Officer, and Mental Health along with inmate accounts, the Parole Board, and inmate records. Offenders come to these areas to clean or participate in court hearings via Vision Net. Offenders in the area are under supervision at all times.

Also in the general area are:

- Education / classrooms with cameras in the corner and windows to the outside and between classrooms.
- Janitor closets which are locked unless in use at which time they are supervised by staff.
- A quilt room.
- A hobby room.
- A library for the entire facility.
- An Administrative Pool office where offenders work scheduling offenders for areas such as the beauty shop and hobby room; whenever an offender is working in the area, the doors remain open.
- Canteen processing area.
- Storage rooms.
- Beauty shop.
- Facility laundry which also has access to the canteen processing area via a padlocked gate. One of the cameras has good visibility behind the washer, but the facility will add a mirror to enhance camera visibility behind the washing machines.
- Gymnasium.
- Property room in which the hygiene bags are prepared for offenders coming through intake. The Team also observed the hygiene bags prepared in advance and provided to an offender on arrival that contain the general PREA and advocacy brochures for offenders.
- Visiting area which includes a non-contact visiting area. Staff come through an entrance from the main hallway while visitors enter from the front, public access area. The area also has a small outdoor visiting area and a staff office with windows to the outside. The area also maintains a strip search area and an offender bathroom. The Team observed PREA posters throughout the area.
- Chapel with a chapel library, large meeting room, staff offices, an offender restroom, and storage room.

Outdoor areas include the following:

- A yard for maximum custody offenders, which are housed in another area of the facility and escorted out of the unit for outdoor recreation and medical services. The yard is adjacent to the area for sweat lodge. Offenders are able to come out to the sweat lodge area, which is under camera supervision, rather than direct staff supervision. Although there are two cameras in the area, there is a small outside walkway leading from the emergency exit from H pod between the building and the fence where there are electrical or mechanical boxes immediately on the other side of the fence. The physical structure of the area creates a blind spot where visibility by camera is not possible.
- A recreation yard with a central track
- A garden area that is maintained by offender crews. The area also maintains a greenhouse. Anytime an offender is working in the area, she is under direct supervision of a Correctional Officer. All produce from the garden goes to the offender kitchen, with excess donated to a local women's shelter.

All doors in these areas have windows and camera coverage of the area is extensive. There are several offices upstairs where offenders are under constant escort and there is camera coverage of the area. There are motion sensor lights in many of the bathrooms and the facility is planning to add these to the remaining bathrooms as soon as funding is available.

H Pod – This is a minimum/medium custody housing unit. Several rooms that previously were programming spaces have been converted to 4-man rooms. Offenders in these rooms use the bathroom and shower in the main hallway. It was noted during the tour that one shower curtain in the area was full length, not allowing visibility into the area. This was shortened while the Team was on site, allowing a staff member to see below the curtain, ensuring that only one offender was in the shower. This will be replaced by a “PREA shower curtain” which is clear on the top and bottom and opaque in the center, allowing privacy for the offender using the shower, but sufficient visibility to ensure safety and security. The remainder of the unit maintains three to six man rooms, each with a bathroom in the room. These bathrooms include a single stall shower. There are two wings off a central day room with staff offices, an inmate kitchenette, a laundry room where offenders can wash their personal items, and a room in which offenders can do homework. In the back of one wing are some single cells where placement is based on need, such as medical issues. An office area for the Correctional Officer assigned to the area has a large window that looks out into the dayroom. Offenders who work in the dog program are housed in this area, which also maintains classrooms, an area for grooming, an office for the program coordinator, and a small outside yard. Offenders wishing to participate in this program must apply and be interviewed, then progress through levels within the program, taking classes and passing tests.

G Pod – which has a physical layout identical to H Pod.

Industries – The area is operated by Montana Correctional Enterprises and maintains silk screening and embroidery operations. Offices are windowed to allow good visibility. There is a gated, fenced storage area in which only one offender is allowed to enter at any given time. The hygiene kits provided to offenders on intake are prepared in this area. Staff working in the area generally practice the rule of three, never allowing only one offender in the area with a single staff member. However, this rule is not formally written into agency policy or facility procedures. It is recommended that this be added on the next revision to these documents. Offenders working in these areas produce items (shirts, caps, jackets, etc.) specific to customer order.

The Parenting Area – This area is for programming provided by contractors from the Family Tree Center, providing education for offenders, and allowing visits between offenders and their children under direct supervision. There is a small outdoor play area. The area has one office and a second room used for education and breast pumping by offender mothers. Both rooms have solid doors with no visibility into the area. The facility will add windows to each of these doors as soon as logistics and materials are finalized. In the meantime, a sign will be added that the doors are to remain open when in use, unless the offender is pumping, at which time advance permission will be secured and only one offender will be allowed in the area at any given time. Additionally, a mirror will be added both offices to address identified blind spots.

Food Services – This area consists of food preparation and storage areas and the offender dining hall, where offender eat by floor / housing unit, with the exception of maximum custody offenders, who are fed in their cells. The area also maintains a staff bathroom, staff offices with windows allowing clear visibility, a dish pit, a walk-in freezer, and a feeding line area. In the smaller dry storage area, carts maintained in the center of the room had previously been cut down to allow clear lines of site. The facility will replace the mirror currently in the dry storage / receiving area with a larger one or add a second mirror as the current mirror does not allow sufficient clarity of the area.

Medical – The area maintains a pill room and a medical records room where no offenders are allowed access. The area also has a dental clinic, which has mirrors to allow visibility and the door is required to remain open whenever the area is in use. The area also maintains examination rooms, staff offices, and a holding cell that can be used for intake offenders or offenders from the maximum (locked) units. There is a red line on the floor and offenders are not permitted to cross this line into exam and treatment rooms without staff escort.

Intake – The facility is generally notified by jail officials about two (2) days in advance of an arrival. Offenders will generally spend 48 hours in intake, where they are classified, evaluated by medical and mental health, and provided a PREA risk identifier / designation following completion of an initial risk assessment. The area maintains an emergency response ready room, a sally port, a staff office, and a holding cell that can also be used for close observation or suicide watch as needed. There is a camera in the holding cell, which has no plumbing. Offenders held in this cell needing shower or toilet facilities are escorted out of the cell by female Correctional Officers. There are also two (2) cells with toilets used for offenders with behavioral issues during intake or for segregation overflow. These are wet cells and do not have camera visibility into the cell. An officer may not be assigned specifically to the area if there are offenders held only in these two (2) cells, but the offender has a call button to contact master control and roving staff make regular rounds of the area.

Upper Floors: The area consists of a central landing with three units branching off on each of two floors. There are curtains on the windows looking from the landing into the actual housing unit to prevent offenders moving in the area from interacting with offenders on the housing unit. This portion of the facility was built in 2000 or 2001. In addition to housing units, the area maintains office space for evaluations, meetings with offenders, etc. The area has two-way glass, so the interior is clearly visible from the surrounding pods along with the camera on E unit. In the medium and close custody units, if the Correctional Officer has to be off the floor to escort an offender, the unit is placed on modified (rolling) lockdown, with offenders able to move about as needed to shower, use the phones, etc., but are not allowed to remain in the dayroom. The area is under constant observation by the Control Center. Offenders are also able to contact the Control Center via an intercom system.

- A Unit – Close custody – The unit maintains 13 cells, two of which are held as single cells. All cells are wet cells, with toilet and sink fixtures in each cell. There is a shower area at one end of the unit, maintaining three (3) shower stalls with “PREA curtains”, namely those with transparent panels at the top and bottom of the curtain and an opaque center panel, providing privacy but allowing staff to see how many offenders are in each shower. The unit also has a central area designated as the dayroom. There is a scanner in the back of the unit where staff making rounds (tier checks, unannounced rounds, etc.) are required to scan their identification card, confirming staff are moving about the unit as required. The facility’s main control center is located in this area and has a direct line of sight into the area obscured by one-way glass.
- B Unit – Medium custody – The unit has the same layout as A Unit but with 19 cells. 18 of these cells are two-man, with one cell maintained as a 4-man cell.
- C Unit – Maximum custody (locked unit) – The unit is made up of 11 single cells, a cell converted to a shower, and another cell converted to a unit dayroom. There is also a program room with camera coverage in which rehabilitative and/or educational programming can be provided to multiple offenders. All offenders housed in C Unit are required to participate in anger management if there are any violence issues in the offender’s history. If certain offenders cannot be in the programming room together, mental health providers can provide programming from the center hallway of the unit to offenders through open cuff ports. All C Unit offenders are required to be handcuffed from behind and wear leg restraints when outside of their cells; however, they

are not strip searched prior to such a move. As a result, male Correctional Officers are able to move offenders as needed. Two officers are required anytime a C Unit offender is moved.

- D Unit – High medium custody – The unit is a mirror image of A Unit.
- E Unit – Medium custody – The unit is a mirror image of B Unit.
- F Unit – Disciplinary locked down unit – The unit is a mirror image of C Unit.

Maximum custody (C Unit) is a classification designation on intake or resulting from behavior issues when the offender gains points as opposed to F Unit which is disciplinary segregation.

Team members noted that the facility was clean and well maintained. All staff members were very professional, friendly, and welcoming. Staff were observed monitoring offenders and conducting security checks in housing areas. There was a certain ease about the facility, however, strong security practices were actively in place and known by all staff observed and interviewed. Security wasn't implemented by force or a strong hand, but by education and cooperation. During the on-site review, staff were incredible; very professional, willing to discuss issues and procedures with the Team, and appeared proud of the facility for which they worked. The Team observed productive interaction and respect between staff and between staff and offenders. Individuals were observed engaged in casual conversations, but all were very aware of personal boundaries. The Warden was observed out and about, engaging in conversation with staff and offenders. No one appeared hesitant to engage her in conversation and she actively listened to what each individual had to say. Staff at all levels were receptive to suggestions made by the Team, many of which were implemented almost immediately and certainly before the finalization of this report. Both staff and offenders noted significant changes in the facility in the last year or so under the direction of the current Warden. Comments typically involved holding those who violated rules accountable while providing growth and mentoring opportunities for anyone interested. A few individuals noted that offenders continue to use PREA as a tool to get other offenders moved or get back at specific individuals, but that this is steadily decreasing. The Auditor believes that this will continue to improve as administrators address perceptions and continue on the path currently undertaken.

Offenders were all very polite and willing to speak with the Team. Offenders were proud to show the Team what they were working on, telling us about the dogs they were working with, the items they created in industries, and the cards and beading they were fashioning. A few offenders reported issues with privacy and the new shower curtains, but analysis showed that these were longer term offenders who did not like the changes being implemented by the current administration.

Team members recommended the following actions be taken to address blind spots and improve security practices. It is noted that none of these recommendations rise to the level of non-compliance for standards 115.13 or 115.15, especially in light of all the work the facility has already done:

- Add a mirror to enhance camera visibility behind the washing machines. The Auditor was provided with a photograph documenting installation of the identified mirror.
- Replace the current mirror or add a second mirror in the in the dry storage / receiving area with a larger one or add a second mirror. The Auditor was provided with a photograph documenting installation of the identified mirror.
- Install a window in the doors of the offices in the parenting area and install a mirror in the larger office. As of the writing of this report, the facility is evaluating budgetary constraints associated with the addition of windows in the identified doors. To mitigate the concern, signage was added requiring the door to remain open when in use, except for lactation purposes in one of the two areas. Additionally, a mirror was added to the larger office, addressing the blind spot. The Auditor was provided with photographs of all noted modifications.
- Etch or add frosting to the lower portion of cell door windows to enhance privacy while still maintaining security and eliminating offender use of towels or totes to block windows. The Auditor

was provided with photographs of the installation of frosting on the lower portion of the cell door windows as identified.

- Develop a system to address the blind spot created in the small outside walkway leading from the emergency exit from H pod between the building and the fence where there are electrical or mechanical boxes immediately on the other side of the fence. The Auditor received photographs of the domed mirror installed to maximize visibility into the identified area.

The Team was able to review camera placement and areas within the facility where video can be viewed. The system is made up of six (6) DVR's with sixteen (16) cameras each for a total of 96 cameras. All are capable of recording at least 60 days of video. This was reduced from six (6) month capability with software upgrades. Cameras are located throughout the facility, to include pod day rooms, classrooms, medical waiting area, gym, chapel, inmate work locations, common areas, visitation, stairways, dining and hallways. All cameras feed into the Control Room and the Team confirmed that all cameras were extremely clear with good observational capabilities. The agency Director noted that specified headquarters personnel also have the ability to view facility cameras remotely. The Team was also able to confirm that no cameras were able to view areas in which an offender may be in some form of undress.

The custody staffing structure is Correctional Officer, Lieutenant, Associate Warden, and Warden. Custody shift hours are first watch 0600 – 1800 and second watch 1800 - 0600. Non-custody staff include maintenance operations, food service, administration, support personnel, investigator, substance abuse treatment, program managers and specialists, medical, and mental health.

September 4 through 6, 2019, interviews were conducted with MWP staff and offenders. All interviews were conducted with the established USDOJ PREA interview templates. Interviews were conducted based on lists provided by the facility. All interviews were conducted based on a truly random selection from lists provided, with no specific method of selection other than to ensure representation from all areas within the facility where available. Interviews included staff from each of the two shifts operated by the facility.

Private locations were provided within the administration building (warden's conference room) and within interior office spaces. Correctional Officers and the PCM served as escorts during all interview processes. Staff were contacted via radio or telephone for interviews while offenders were located on housing units via the forwarding of lists to the Shift Lieutenant by the Auditor through the PCM. All individuals interviewed were informed of confidentiality and provided with the opportunity to decline any interview. Mental health services were also available as requested by interviewed offenders.

While on site, the Team also reviewed additional documentation provided by the facility in response to Auditor request. This included examples of investigation reports, documentation of evidence control, and selected risk assessments. A member of the Team also observed completion of the initial intake assessment process as completed by medical staff.

There were 88 staff assigned to MWP on the first day of the on-site review. A total of 55 staff interviews were conducted during the initial site review. It is noted that staff turnover at the facility is relatively high, due primarily to the close proximity of the county jail that offers higher wages to its employees.

Staff Category	Number of interviews conducted
Random staff	15

Staff Category	Number of interviews conducted
Specialized staff	40
Total staff interviewed	55
Agency head or designee	1
Warden	1
PREA Compliance Manager	1
PREA Coordinator	1
Contract administrator	1
Intermediate or higher-level supervisor	3
Line staff who supervise youthful offenders – not applicable as the facility does not house youthful offenders.	0
Education and program staff who work with youthful offenders – not applicable as the facility does not house youthful offenders.	0
Medical and mental health staff	4
Human resources staff	1
SAFE/SANE staff	1
Volunteers who have contact with offenders	2
Contractors who have contact with offenders	2
Investigative staff	4
Staff who perform screening for risk of victimization and abusiveness	3
Staff who supervise offenders in segregated housing	1
Staff on the incident review team	3
Designated staff member charged with retaliation monitoring	2
First responders	2
Intake staff	1
Non-medical staff involved in cross-gender strip or visual searches	1
Representative from community-based victim advocacy organization	1
Representative from organization that conducts criminal investigations – not applicable as this is done internally	0
Offender disciplinary hearing officer	1
Grievance coordinator	1
Mailroom supervisor	1
Training manager	1

The offender count was 217 on the first day of the on-site review. The facility capacity is 212. It is noted that the facility is currently and has been over capacity at least once in the past 12 months.

The facility does not hold offenders for other agencies, to include the U.S. Marshals Service, the Bureau of Prison, or U.S. Immigration and Customs Enforcement. The facility also does not hold youthful offenders.

A total of 24 formal offender interviews were conducted. Additionally, interviews were conducted with the three (3) offenders who submitted letters in advance of the on-site review. Two (2) additional offenders were interviewed based on on-site requests to speak with the Audit Team. Based on the population of the facility, a total of 20 offender interviews were dictated by the USDOJ PREA auditor handbook.

Category	Number of interviews conducted
Random offenders – a total of 10 is required by the handbook	12
Specialized offenders – a total of 10 is required by the handbook	12
Total offenders interviewed – a total of 20 is required by the handbook	24
Breakdown of specialty offender interviews conducted	
Youthful offenders – not applicable as no youthful offenders were housed at the facility	0
Offenders with a physical disability, blind, deaf, or hard of hearing	1
Offenders who are LEP – not applicable as none were currently housed in the facility	0
Offenders with a cognitive disability	2
Offenders who are lesbian, gay or bisexual	4
Transgender or intersex offenders	1
Offenders in segregated housing for high risk of sexual victimization – not applicable as no offenders fitting this category were housed at the facility	0
Offenders who reported sexual abuse – handbook required two but only one remained housed at the facility	1
Offenders who disclosed victimization during a risk assessment	3

The Audit Team concluded the on-site portion of the audit on 09/06/2019. An out-brief was conducted with the Warden, two Associate Wardens, Human Resources Manager, Agency PREA Coordinator, PCM, Disciplinary Hearing Officer, PREA Administrative Investigator, and one Lieutenant. The group was joined via teleconference by the Agency Director and HQ Quality Assurance Director.

The Auditor has to note that the staff of this facility has moved PREA implementation and sustainability lightyears since their last DOJ audit. The collaboration, knowledge level and pride demonstrated by staff at all levels was remarkable and inspiring. Under the direction of the new Warden, staff and offenders both have noted dramatic changes in morale, atmosphere, continuity, and accountability. Everyone should be incredibly proud of the work done to reach these achievements and continue on with doing such great things.

Facility Characteristics

The auditor's description of the audited facility should include details about the facility type, demographics and size of the inmate, resident or detainee population, numbers and type of staff positions, configuration and layout of the facility, numbers of housing units, description of housing units including any special housing units, a description of programs and services, including food service and recreation. The auditor should describe how these details are relevant to PREA implementation and compliance.

The mission of the Montana Department of Corrections reads, “The Montana Department of Corrections enhances public safety, supports the victims of crime, promotes positive changes in offender behavior, and reintegrates offenders into the community.” The mission of MWP states, “The Montana Women’s Prison provides female inmates a safe, secure and positive environment. We foster accountability using gender specific evidence-based programs for reintegration back into communities while promoting family reunification and support to victims.”



MWP transferred from Warm Springs, Montana to its current location in Billings in 1994. Initially, the facility was designed as a psychiatric hospital for juveniles. Modifications and expansions were made to bring the facility to its current state. The facility houses all female offenders remanded to the Montana Department of Corrections, therefore housing offenders of all custody levels. The main building maintains all housing units, food services, administration offices, programming areas, medical and mental health services, laundry gym, property, visiting, chapel, and the parenting program area. Also inside the secure perimeter in a separate building is the Montana Correctional Enterprises maintaining screen printing and embroidery operations.

MWP provides both medical and mental health services on-site. Forensic medical examinations are conducted at a local hospital. The facility has not been accredited by any other organization within the last three (3) years; however, an internal PREA-related self-assessment and mock audit have been conducted since the last Department of Justice federal PREA audit conducted in 2017 (final report dated 02/03/2018).

Facility demographics:

Rated capacity	212
Average daily population for the last 12 months	223
Population on day one of the on-site review	217
Age range of offenders	21 - 67
Gender of offenders	Female
Average length of stay for offenders	15.3 months

Number of staff	88
Number of buildings	2
Number of single cell housing units	2
Number of open bay / dormitory housing units	0
Number of multiple occupancy cell housing units	6
Number of segregation cells	22



Job opportunities available for offenders include hobby attendants, Correctional Enterprises, janitorial details, and personal care attendants. Offenders also work scheduling other offenders for the beauty shop, attend school, and participate in the facility’s dog program. There are formal position descriptions for each job assignment, many of which require the offender to submit an application and cover letter, providing invaluable skills when releasing. Job assignments are overseen by the Inmate Services Lieutenant and offenders are reviewed by the Administrative Review Committee, which includes the PCM, before assignment occurs.

Per the information provided by the Warden, PCM, and agency annual PREA report,

The Montana Women’s Prison provides an environment that is designed to improve outcomes for women’s recovery and reentry into Montana communities, by emphasizing personal accountability, public safety and restorative justice for crime victims...More than 90 percent of all inmates at the Women’s Prison are involved in educational, vocational and recovery/reentry programs...“The

*prison strives to promote **child-parent bonding and development of parenting skills** in preparation for family reunification. Special family “Kids’ Day” events occur once a month under the supervision of parenting staff to promote positive relationships. The prison’s **educational programs** include classes to obtain high school-equivalency diplomas, college preparation classes, and courses to learn computer, personal and job-related skills. In partnership with the prison, correctional enterprises offer inmates vocational training opportunities through the **prison industries program**. Industries such as garment and apparel print-screening, direct-printing, design work and embroidery, as well as assembling hygiene kits for prisoners. The prison paws program was started in 2004. It is a canine training program which allows inmates an opportunity to learn new skills and improve self-esteem while socializing canines, and teaching them basic manners so the canines are better community members. A garden project, launched in 2012, has enhanced the nutritional variety available to inmates and when an abundance of produce is available donations are made to the community food bank. The women who work in the garden and greenhouse can earn their master gardener certification in addition to life-skills and technical on-the-job training in greenhouse operations. The programs offered by the prison are enhanced by community partnerships and the large number of **volunteers** who donate time to bring in faith-based, physical wellbeing/prevention, substance abuse treatment and education, healthy relationships, cognitive/behavioral strategies and life skills, creative arts programming, and victim awareness programs and activities. Victims who participate in restorative justice programs such as a victim awareness panel often experience healing; and it strengthens the inmate’s accountability and understanding of the harm they created through their crime while promoting a social bond to the community. These programs encourage change in inmates and provide ties to community, while allowing them to give back in a positive and productive way through interactions and community service projects.*



MWP offenders are provided the opportunity to participate in evidenced-based programs, programs that use research and data to guide policy and practice decisions. In 2017, the state legislature passed legislation that mandated the Department implement evidence-based programs that include regular standardized proven curriculum and regular evaluation. The programs at MWP include:

- Beyond Trauma and Helping Women Recover - Both programs are gender responsive, cognitive behavioral programs that were studied together when they were established as evidence based. Beyond Trauma is the trauma curriculum and Helping Women Recover addresses substance use issues.
- Beyond Violence - A cognitive behavioral, gender responsive, anger management course
- Dialectic Behavioral Therapy (DBT) Skills Group - focus' on four sets of skills; interpersonal effectiveness, emotional regulation, distress tolerance and mindfulness. This cognitive behavioral approach offers practical advice on how best to deal with frequently encountered problems and helps a person manage them self and their emotions, interact with others in a healthy manner and tolerate stressful times.
- Moving On – A general, cognitive behavioral program that is gender responsive and trauma sensitive.
- Seeking Safety – A cognitive behavioral, substance use program that also addresses varying degrees of trauma.
- Thinking for a Change – A general, cognitive behavioral program created in conjunction with the National Institute of Corrections.
- Victim Impact: Listen and Learn - A program created by the Office for Victims of Crime Training & Technical Assistance Center (OVCTTAC) designed to assist offenders to take accountability and realize the impact their criminal choices made on the lives of their victims.

MWP operates Prison Paws, a dog training program that offers introductory obedience training, boarding services, and basic grooming. Through this program, private citizens can bring their dogs to be trained in a basic program that last approximately four (4) weeks, in which dogs are taught basic manners, walking on a leash, and socialization skills. Dogs that have successfully completed the basic training program can be boarded at the facility, cared for by specially trained minimum-custody offenders. Dogs reside in the cells of these offenders, who demonstrated an immense amount of pride and skill in the work they were doing.

Summary of Audit Findings

*The summary should include the number of standards exceeded, number of standards met, and number of standards not met, **along with a list of each of the standards in each category.** If relevant, provide a summarized description of the corrective action plan, including deficiencies observed, recommendations made, actions taken by the agency, relevant timelines, and methods used by the auditor to reassess compliance.*

Auditor Note: No standard should be found to be “Not Applicable” or “NA”. A compliance determination must be made for each standard.

Standards Exceeded

Number of Standards Exceeded: 4

List of Standards Exceeded: [Click or tap here to enter text.](#)

115.12 Contracting with other entities for the confinement of inmates

115.13 Supervision and monitoring

- 115.41 Screening for risk of victimization and abusiveness
- 115.73 Reporting to inmates

Standards Met

Number of Standards Met: 41

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

Standards Not Met

Number of Standards Not Met: 0
List of Standards Not Met: not applicable

PREVENTION PLANNING

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

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

115.11 (a)

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

115.11 (b)

- Has the agency employed or designated an agency-wide PREA Coordinator? Yes No
- Is the PREA Coordinator position in the upper-level of the agency hierarchy? Yes No
- Does the PREA Coordinator have sufficient time and authority to develop, implement, and oversee agency efforts to comply with the PREA standards in all of its facilities? Yes No

115.11 (c)

- If this agency operates more than one facility, has each facility designated a PREA compliance manager? (N/A if agency operates only one facility.) Yes No NA
- Does the PREA compliance manager have sufficient time and authority to coordinate the facility's efforts to comply with the PREA standards? (N/A if agency operates only one facility.)
 Yes No NA

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

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

115.11 (a)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section I (page 1) states, "The Department of Corrections 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)*."

The policy includes related definitions, reporting requirements, prevention and intervention processes, training requirements, and use of risk assessment information. The agency also maintains additional policies that expand on investigations, classification, healthcare, etc., clearly meeting the requirements of this subsection.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.11 (b)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section III. (page 1) defines the PREA Coordinator as, "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." Section IV.A.3. (page 2 – 3) also requires, "The Department director, or designee, will appoint a Department PREA coordinator responsible for the following: (a) coordinating and developing policies and procedures to identify, monitor, and track sexual abuse and sexual harassment; (b) conducting audits to ensure compliance with Department policy, applicable state or federal laws, and PREA standards; and (c) compiling records and reporting statistical data to the U.S Department of Justice on an annual basis as required by PREA standards."

The Auditor was provided with agency-level organizational charts, confirming the designation of a PREA Coordinator, who reports to the Quality Assurance Director. The Quality Assurance Director reports directly to the agency's Director.

The Auditor was also provided with the position description of the Prison Rape Elimination Act (PREA) Program Manager (working title is PREA Coordinator). The position description states, in part, "In collaboration with the department's Quality [Assurance] Office, the incumbent will serve as the State's expert on PREA standards and [compliance], and will work on complex issues pertaining to consistent application of the Prison Rape Elimination Act (PREA). Further, PREA mandates national data collection efforts and requires the application of standards and accountability measures. PREA applies to all federal, state, and local prisons, jails, police lock-ups, private facilities. The incumbent would be responsible for ongoing implementation of PREA as part of an effort to develop a zero-tolerance standard for sexual assault and rape within the correctional system. The incumbent would be required to take on a leadership role and build working relationships across the entire department to implement all facets of this act. The incumbent will provide direction and oversight for PREA compliance managers at all DOC [facilities]. The PREA Program Manager is responsible for the design, implementation, training, and

monitoring of the federal PREA standards which apply to this department.” The position description details responsibilities related to program development, management, and coordination.

During an interview, the PREA Coordinator confirmed that she has sufficient time and authority to manage all of her PREA-related responsibilities, indicating significant support throughout the agency as well as open communication with the Director and administrative staff. She communicates regularly and consistently with the facility PREA Compliance Managers via telephone, email, skype, and at least quarterly visits to each facility. The PREA Coordinator also reported that when identifying an issue with complying with a PREA standard, a holistic approach is employed, looking for the root cause, collaboratively building a solution, launching a fix, providing any needed support (e.g., policy, training, etc.), and then testing it to ensure success.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.11 (c)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.A.4. (page 3) requires, “Each administrator, or designee, will assign a PREA compliance manager responsible for the following: (a) coordinating facility PREA-related activities with the 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.”

The Auditor was also provided with the Montana Women’s Prison Operational Procedure MWP.1.1.17, *Prison Rape Elimination Act of 2003 (PREA)* (07/17/2019), section III.A.4. (page 3), which requires that, “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.”

The Auditor was provided with the MWP organization chart dated 07/02/2019. This documents that the PCM reports directly to the facility Warden. This position was established in response to the facility’s most recent PREA audit (final report dated 02/03/2018).

The Auditor was provided with the position description of the PREA Compliance Manager / Procedure Specialist (not dated), for MWP. This position description states, in part, “The PREA Compliance Manager/Procedure Specialist will also oversee MWP’s compliance with the Prison Rape Elimination Act of 2003 (PREA). The main objective of this position is to coordinate facility PREA-related activities; ensure facility compliance with all PREA standards; ensure facility compliance with PREA training requirements; and track and report PREA allegations and statistics to the Department PREA coordinator.” The position was established as a result of the last Department of Justice PREA audit and was established to ensure 50% of the individual’s time is dedicated to PREA, with the remaining 50% dedicated to procedure writing. Among the detailed responsibilities related to PREA are the following:

1. *Learn and understand the PREA standards to ensure continual compliance with all PREA standards within MWP.*
2. *Track and report all PREA allegations to account for all PREA investigations.*
3. *Maintain and ensure all PREA policies and procedures are followed at MWP.*

4. *Provide the training Lieutenant with appropriate and applicable information to provide PREA training to staff.*
5. *Ensure all PREA education materials and handouts provided to inmates are in compliance with PREA standards*
6. *Work in collaboration with the DOC PREA Coordinator and Quality Assurance Unit. Report all PREA related activities and statistics to the DOC PREA Coordinator.*
7. *Notify the Warden of any areas of serious noncompliance and provide assistance to develop and implement appropriate actions necessary for compliance.*
8. *Oversee and liaison with the PREA hotline.*
9. *Maintain the pre-audit questionnaire and all relevant documentation in preparation for federal audits. Coordinate and complete each phase of the federal audit process with assistance from the DOC PREA Coordinator.*

During an on-site interview, the PCM reported that she has sufficient time to manage all of her PREA-related responsibilities, with the support of the facility's staff. She reported very good access to the Warden, to whom she provides monthly update reports during regular meetings. The PCM also reported weekly management meetings with Human Resources, the Warden, the Criminal Investigator, the Disciplinary Officer, and the Associate Wardens where issues are discussed and consensus reached, with buy-in by all participants. She also indicated that she regularly seeks guidance from the agency PREA Coordinator.

The Auditor was provided with examples of the update reports that are provided monthly to the Warden by the PCM, detailing cases opened, cases closed, cases that are currently open, sexual assault incident reviews completed, and investigated cases by month. These are discussed in the formal monthly meetings between the Warden and PCM.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017
- Montana Department of Corrections Director's Office organizational chart (not dated)
- Administrative Services Division organizational chart (not dated)
- Prison Rape Elimination Act (PREA) Program Manager position description 10/23/2013
- Montana Women's Prison organizational chart dated 07/02/2019
- Position description of the PREA Compliance Manager / Procedure Specialist (not dated), for MWP
- June 2018, July 2019, and August 2019 monthly update reports provided to the Warden by the PCM

Interviews conducted:

- PREA Compliance Manager
- PREA Coordinator

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

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

115.12 (a)

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

115.12 (b)

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

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

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

115.12 (a)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.B.2. (page 3) requires that, "Any new contract or contract renewal for the confinement of offenders 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."

The Auditor was provided with contracts for between MDOC and the following organizations:

- 5 County Treatment and Youth Rehabilitation Center to "provide treatment based services in a secure care setting to youth offenders adjudicated to the Department." The contract was signed 07/27/2018 and remains in effect through 06/30/2021. The contract requires, "CONTRACTOR

will comply with the Prison Rape Elimination Act (PREA)...all applicable PREA regulations, 28 CFR Part 115, and all applicable PREA standards. CONTRACTOR shall establish a zero tolerance policy to incidents of sexual assault/rape or sexual misconduct.” The contract also requires compliance with staff and offender education requirements, along with the provision of proof of compliance.

- Cascade County to “provide all services and management for the operation of a 152 bed, minimum to medium security prison for adult male offenders.” The contract was signed on 11/15/2016 and remains in effect through 06/30/2024. Section 12.L. (page 15) requires that, “COUNTY will comply with the Prison Rape Elimination Act...and ACCD 1.3.1400 PREA to include incident reporting. CONTRACTOR shall establish a zero tolerance policy to incidents of sexual assault/rape or sexual misconduct. Any subletting or subcontracting by Contractor subjects subcontractors to the same provisions.”
- Crossroads Correctional Center to “house adult male offenders of all custody levels.” The contract was signed on 06/06/1997 and remains in effect through 06/30/2021. The contract attachment A requires that the facility must adopt DOC policy 1.3.14 Prison Rape Elimination Act (PREA). A contract amendment, section XII, adds subsection N, which requires, “The Contractor shall comply with 42 U.S.C. A....and Department MSP Prison Rape Elimination Policies and Procedures to include incident reporting. The Contractor shall establish a zero tolerance policy to incidents of sexual assault/rape or sexual misconduct...The Contractors shall require all staff, volunteers, contract staff to attend the basic PREA training and such on-going annual training as may be required by law, Department and Contractor policy. The Contractor shall require first-line responders or staff who may be involved in incidents of sexual assault/rape or sexual misconduct to attend specialized PREA training. The Contractor shall provide proof of compliance. The Contractors shall ensure that during orientation offenders receive Facility orientation and orientation material regarding PREA. Offenders shall be required to sign an acknowledgement of having received the information. Whenever possible, the Contractor will send inmates suspected of being sexually assaulted/rape to a hospital. The Contractor shall separate the perpetrator and victim. When an offender suspected or has been sexually assaulted/raped or been the victim of sexual misconduct, the Contractor shall provide mental health treatment/counseling to the offender. Information regarding sexual predators or victims will be forwarded to the Contract Placement Bureau when the identified offender is transferred from one facility to another. The Contractor shall keep that information confidential. The Contractor shall report all incidents or suspected incidents of staff misconduct to the Department’s PREA unit and contract Placement Bureau, as well as, all reportable incidents of sexual assault/rape, sexual misconduct or sexual acts involving inmates.”
- Dawson County to “provide all services and management for the operation of a 152 bed, minimum, medium, and close security prison for adult male offenders.” The contract was signed 05/29/2008 and remains in effect through 06/30/2029. “COUNTY shall comply with 42 U.S.C. A....and Department/MSP Prison Rape Elimination Policies and Procedures to include incident reporting. COUNTY shall establish a zero tolerance policy to incidents of sexual assault/rape or sexual misconduct...COUNTY shall require all staff, volunteers, contract staff to attend the basic PREA training and such on-going annual training as may be required by law, DEPARTMENT and COUNTY policy. COUNTY shall require first-line responders or staff who may be involved in incidents of sexual assault/rape or sexual misconduct to attend specialized PREA training. COUNTY shall provide proof of compliance. COUNTY shall ensure that during orientation Offenders receive Facility orientation and orientation material regarding PREA. Offenders shall be required to sign an acknowledgement of having received the information. Whenever possible, COUNTY will send inmates suspected of being sexually assaulted/rape to a hospital. COUNTY shall separate the perpetrator and victim. When an offender suspected or has been sexually assaulted/raped or been the victim of sexual misconduct, COUNTY shall provide mental health

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

- Missoula County to "provide all services and management for the operation of a 144 bed, minimum to close security prison for adult male inmates." The contract went into effect 11/28/2000 and remains in effect through 06/30/2029. Section 41 (page 33) requires that, "At all times during the performance of its obligations of the Contract, the COUNTY shall strictly adhere to all applicable Department of Corrections Policies, ACA and NCCHC Standards, local, state, and federal laws and regulations." This contract went into effect before the PREA standards were enacted; however, it has been amended since that time. The language included in the initial contract is sufficient to require compliance with federal PREA standards and requirements.

Each contract also requires the contracted entity provide access to the facility, all applicable records, staff and offenders to enable MDOC to conduct reviews and/or audits of the facility and its programs.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.12 (b)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017 section IV.B.2. (page 3) requires that, "Any new contract or contract renewal for the confinement of offenders 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." This language is duplicated in the Montana Women's Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019, section III.B. (page 3).

Per a memo received from the PREA Coordinator, "In non-audit year, MDOC contract and compliance monitors visit each facility to ensure they are continuing to comply with the PREA standards." The Auditor was provided with email instruction to these monitors, standardized compliance evaluation tools, timelines for completion, and examples introductory letters to facility administrators. The compliance evaluation tools contain key elements drawn from the Department of Justice report template, to include analysis of standards, interview summaries, and results of the on-site inspection.

The Auditor was also provided with the Quality Assurance Office Audit Procedure Manual (10/19/2016), section VI.B. Contract Reviews (page 12), which requires, "(1) Contract review audits may be conducted on any contract held by the Department. The contract review audit instrument will include standards or requirements outline in the contract. (2) The contract for Crossroads Correctional Center in Shelby, MT will be reviewed annually by the QAO [Quality Assurance Office]. (3) Contracts for other secure facilities, prerelease centers and treatment facilities will be reviewed by the QAO every three years with site visits by Department employees in the intervening years intended to monitor contract requirements and progress toward compliance with audit recommendations. (4) Unannounced site visits may be conducted to audit specific standards at any time. (5) For planned contract reviews, the QAO will notify the facility administrator of the audit date(s) and request any applicable supporting documentation."

During an interview, the agency Contract Administrator detailed the monitoring activities conducted by on-site monitors and two contract managers. He noted that on-site monitors have full access and can monitor at the facilities, making daily inspections to review things like posters, shower curtains, phone checks, cameras, etc. These individuals also spot check grievances. He added that during the facility's off years, when there is not a DOJ PREA audit being conducted, a team is assembled to do reviews

using an established PREA checklist, conducting a facility walk through, and conducting random reviews of items such as training, background checks, visual restrictions, cameras, etc. All reports are forwarded to the agency PREA Coordinator to address any identified issues or concerns.

Based on the standardized, extensive monitoring process established by MDOC, the agency and MWP are assessed as having exceeded the requirements of this subsection.

Documentation provided for this standard:

- Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017
- Montana Women's Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019
- 2017 annual PREA report posted to agency public website
- Contract with 5 County Treatment and Youth Rehabilitation Center signed 07/27/2018 and remaining in effect through 06/30/2021
- Contract with Cascade County signed on 11/15/2016 and remaining in effect through 06/30/2024
- Contract with Crossroads Correctional Center signed on 06/06/1997 and remaining in effect through 06/30/2021
- Contract with Dawson County signed 05/29/2008 and remaining in effect through 06/30/2029
- Contact with Missoula County that went into effect 11/28/2000 and remaining in effect through 06/30/2029
- 06/28/2019 explanatory memo from the PREA Coordinator
- Emails from the PREA Coordinator to contract monitors
- Prison Rape Elimination Act (PREA) Juvenile Facility Contract Compliance Check
- Prison Rape Elimination Act (PREA) Prison and Jail Contract Compliance Check
- Examples of introductory letters from compliance monitors to facility administrators
- Quality Assurance Office Audit Procedure Manual (10/19/2016)

Interviews conducted:

- Agency Contract Administrator

Standard 115.13: Supervision and monitoring

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

115.13 (a)

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

- Does the agency ensure that each facility's staffing plan takes into consideration any applicable State or local laws, regulations, or standards in calculating adequate staffing levels and determining the need for video monitoring? Yes No
- Does the agency ensure that each facility's staffing plan takes into consideration the prevalence of substantiated and unsubstantiated incidents of sexual abuse in calculating adequate staffing levels and determining the need for video monitoring? Yes No
- Does the agency ensure that each facility's staffing plan takes into consideration any other relevant factors in calculating adequate staffing levels and determining the need for video monitoring? Yes No

115.13 (b)

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

115.13 (c)

- In the past 12 months, has the facility, in consultation with the agency PREA Coordinator, assessed, determined, and documented whether adjustments are needed to: The staffing plan established pursuant to paragraph (a) of this section? Yes No
- In the past 12 months, has the facility, in consultation with the agency PREA Coordinator, assessed, determined, and documented whether adjustments are needed to: The facility's deployment of video monitoring systems and other monitoring technologies? Yes No
- In the past 12 months, has the facility, in consultation with the agency PREA Coordinator, assessed, determined, and documented whether adjustments are needed to: The resources the facility has available to commit to ensure adherence to the staffing plan? Yes No

115.13 (d)

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

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

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

115.13 (a)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.B.6. (page 3) requires that, "Administrators are required to develop, document, and make best efforts to comply on a regular basis with a staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring, to protect offenders against abuse. In circumstances where the staffing plan is not complied with, facilities will document and justify all deviations from the plan."

The Auditor was provided with the Prison Rape Elimination Act (PREA) Annual Staffing Plan Reviews dated 01/05/2016, 01/03/2017, and 12/18/2018. The PREA Coordinator noted in a memo that on 12/18/2018 the agency restructured staffing plans and the plan was signed off on 01/04/2019 by the Warden, Associate Warden of Security, Associate Warden of Programming, agency PREA Coordinator, and the PCM. The Auditor was also provided with this review, which includes an analysis of staffing, deviations, programming, surveillance systems, and physical plant reviews. She articulated that the staffing plan is particularly important to this facility due to the diverse nature of the offender population and limited options for separation. Movement, supervision, camera placement, and activities are reviewed on a continuous basis. The Warden noted that cameras and mirrors were added based on recent reviews, along with a modification of all shower curtains based on trend analysis.

Interviews with the Warden and PCM confirmed compliance with all standard-required elements. There are currently no judicial findings of inadequacy or findings of inadequacy by federal investigative agencies or internal or external oversight bodies. The Warden reported that the staffing plan format recently underwent significant updates, allowing it to be a more real-time document that is used daily by administrators and Shift Commanders.

During the on-site review, the Team made the following recommendations regarding areas of limited visibility in the facility:

- Add a mirror behind the washer to enhance camera visibility behind the washing machines. The Auditor was provided with a photograph documenting installation of the identified mirror.
- Replace the current mirror or add a second mirror in the in the dry storage / receiving area with a larger one or add a second mirror. The Auditor was provided with a photograph documenting installation of the identified mirror.

- Install a window in the doors of the offices in the parenting area and install a mirror in the larger office. As of the writing of this report, the facility is evaluating budgetary constraints associated with the addition of windows in the identified doors. To mitigate the concern, signage was added requiring the door to remain open when in use, except for lactation purposes in one of the two areas. Additionally, a mirror was added to both offices, addressing blind spots. The Auditor was provided with photographs of all noted modifications.
- Develop a system to address the blind spot created in the small outside walkway leading from the emergency exit from H pod between the building and the fence where there are electrical or mechanical boxes immediately on the other side of the fence. The Auditor received photographs of the domed mirror installed to maximize visibility into the identified area.

Based on the responsiveness of the revised staffing plan, its use to daily manage operations, the level of involvement with review and use on a facility level, and the facility's response to Auditor suggestions for improvement, MWP is assessed as exceeding the requirements of this subsection.

115.13 (b)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.B.6. (page 3) requires that, "Administrators are required to develop, document, and make best efforts to comply on a regular basis with a staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring, to protect offenders against abuse. In circumstances where the staffing plan is not complied with, facilities will document and justify all deviations from the plan."

Montana Women's Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019, section III.B.6. (page 3), requires that, "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, MWP will document and justify all deviations from the plan in the shift log located in the Lieutenant's office for each shift."

The Auditor was provided with examples of Montana Women's Prison Shift Reports documenting such deviations and associated justifications, to include holding over staff, rolling lockdowns due to staffing, and no library or hobby due to staffing. The Warden indicated that all staffing plan modifications and deviations are documented and reviewed.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.13 (c)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.B.7. (page 3), requires that, "The facility will review the staffing plan annually, in consultation with the PREA coordinator, to assess and document whether adjustments are needed."

Montana Women's Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019, section III.B.7. (page 4), requires that, "MWP will review the staffing plan annually, in conjunction with the PREA coordinator, to assess and document whether adjustments are needed."

The Auditor was provided with the Prison Rape Elimination Act (PREA) Annual Staffing Plan Reviews dated 01/05/2016, 01/03/2017, and 12/18/2018. These reviews contain all elements required in the standard including a review of the facility's physical plant, surveillance system, and allegations. As an example, the 2018 annual review includes the following information:

Components of the facility's physical plant are reviewed on a regular basis during audit preparation, federal audits, and incident review to address blind spots and the prevalence of substantiated and unsubstantiated incidents.

The 2018 review also recommended the addition of another Correctional Officer on both day and night shifts in response to the number of allegations reported in a particular area of the facility. The review also recommended a second Control Officer, a second third floor Officer, a second Front Desk Officer, and a second Medical Officer for day shift along with a second Control Officer and a second third floor Officer on night shifts. These recommendations are then reviewed on an agency level for possible inclusion in budgetary requests.

The PREA Coordinator noted in a memo that on 12/18/2018 the agency restructured staffing plans and the plan was signed off on 01/04/2019 by the Warden, Associate Warden of Security, Associate Warden of Programming, agency PREA Coordinator, and the PCM. The Auditor was also provided with this review, which includes an analysis of staffing, deviations, programming, surveillance systems, and physical plant reviews.

During an on-site interview, the PREA Coordinator confirmed participation in the staffing plan review phase either via conference call or in in-person meetings. She also reported that she approves the final review report, which was confirmed in document reviews conducted by the Auditor.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.13 (d)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.B.8. (page 3), requires that, "Administrators will require 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 an unannounced rounds log and cover all shifts and all areas of the facility. The facility must prohibit staff from alerting others of the conduct of such rounds."

Montana Women's Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019, section III.B.8. (page 4), requires that "MWP requires intermediate-level and higher-level staff to conduct random unannounced to identify and deter employee or service provider sexual abuse and sexual harassment. These rounds must be documented in the shift log and covers all shifts and all areas of MWP. MWP prohibits employees from alerting others of the conduct of such rounds."

The Auditor was provided with examples of Montana Women's Prison Shift Reports, documenting the completion of unannounced rounds. The Auditor was also provided with a summary sheet of these rounds, documenting the time of day and where these rounds were conducted. Completing these rounds were the Program Manager, Lieutenants, and the Human Resource Specialist. Rounds were documented for all shifts, including graveyard.

During the on-site review, interviewees confirmed completion of unannounced rounds as required by the standard. Rounds are consistently documented in shift reports. Additionally, interviewees noted the practice of varying the path they take on rounds, coming into the facility at different times and from different directions, and listening to radio transmissions to ensure staff are not alerting other staff of the rounds that are underway.

Based on the incorporation of non-traditional administrative staff in rounds to assess sexual and overall safety of the facility and the steps taken to ensure staff are not being alerted to these rounds, MWP is assessed as exceeding the requirements of this subsection.

Documentation provided for this standard:

- Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017
- Montana Women's Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019
- MWP staffing plan reviews dated 01/05/2016, 01/03/2017, and 12/18/2018.
- Examples of Montana Women's Prison Shift Reports
- Summary spreadsheet regarding unannounced rounds
- Photographs of the mirror installed outside the H pod emergency exit, in the laundry, in the kitchen, and in the parenting area

Interviews conducted:

- Intermediate or Higher-Level Facility Staff
- PREA Compliance Manager
- PREA Coordinator
- Warden

Standard 115.14: Youthful inmates

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

115.14 (a)

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

115.14 (b)

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

115.14 (c)

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

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does

not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

115.14 (a)

The Auditor was provided with information from the PREA Coordinator that MWP does not house youthful offenders. It was noted that these offenders are housed in the Pine Hills Correctional Facility.

The Auditor was also provided with a contact with the 5 County Treatment and Youth Rehabilitation Center to “provide treatment based services in a secure care setting to youth offenders adjudicated to the Department.” The contract was signed 07/27/2018 and remains in effect through 06/30/2021.

The Auditor was able to review population reports for the 12 months preceding the on-site review, confirming that youthful offenders were not housed at MWP.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.14 (b)

The Auditor was provided with information from the PREA Coordinator that MWP does not house youthful offenders. It was noted that these offenders are housed in the Pine Hills Correctional Facility.

The Auditor was also provided with a contact with the 5 County Treatment and Youth Rehabilitation Center to “provide treatment based services in a secure care setting to youth offenders adjudicated to the Department.” The contract was signed 07/27/2018 and remains in effect through 06/30/2021.

The Auditor was able to review population reports for the 12 months preceding the on-site review, confirming that youthful offenders were not housed at MWP.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.14 (c)

The Auditor was provided with information from the PREA Coordinator that MWP does not house youthful offenders. It was noted that these offenders are housed in the Pine Hills Correctional Facility.

The Auditor was also provided with a contact with the 5 County Treatment and Youth Rehabilitation Center to “provide treatment based services in a secure care setting to youth offenders adjudicated to the Department.” The contract was signed 07/27/2018 and remains in effect through 06/30/2021.

The Auditor was able to review population reports for the 12 months preceding the on-site review, confirming that youthful offenders were not housed at MWP.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Contract with the 5 County Treatment and Youth Rehabilitation Center signed 07/27/2018 and remaining in effect through 06/30/2021
- 05/30/19 memo from the PREA Coordinator regarding housing of youthful offenders
- MDOC Population reports

Interviews conducted:

- Due to MWP not housing any youthful offenders, no related interviews were conducted for this standard

Standard 115.15: Limits to cross-gender viewing and searches

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

115.15 (a)

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

115.15 (b)

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

115.15 (c)

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

115.15 (d)

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

115.15 (e)

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

115.15 (f)

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

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

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

115.15 (a)

Agency policy DOC 3.1.17, *Searches and Contraband Control*, 02/02/2017, section IV.D.4. (page 3), requires that, "Trained staff will conduct unclothed body searches and do so in a respectful and dignified manner."

Montana Women's Prison Operational Procedure MWP 3.1.17b, *Offender Pat/Strip Search*, (04/26/2013), section III.B. (page 2), specifies that, "Strip Searches: Females must conduct searches of females except in emergency situations when a search must be conducted for the safety and/or security of the facility and there is no female to conduct the search. MWP will strive to have female officers available to conduct strip searches of females." The procedure (section III.D. page 4) also specifies that, "Pat Searches: Cross gender searches will only be allowed after approval from the Warden or designee."

Knowledge of the ability to conduct cross-gender searches in exigent circumstances only was confirmed in on-site interviews.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.15 (b)

Agency policy DOC 3.1.17, *Searches and Contraband Control*, 02/02/2017, section IV.C.3. and 4. (page 3), requires that, "Staff will conduct clothed body searches of individuals of the same gender as themselves whenever possible. Cross gender clothed body searches of residents in juvenile facilities,

juveniles, and adult females are not permitted unless an exigent circumstance requires a cross gender clothed body search.”

During interviews conducted, only three (3) of the twenty-four (24) offenders interviews noted the denial of access to a program based on the unavailability of female staff to conduct pat searches. All noted issues with visiting. It was learned that recently the facility revised searches associated with visiting, no longer requiring an offender to be searched if she had to use the restroom during a visit session. This appears to have resolved any concerns identified by offenders.

All staff interviewed expressed a thorough knowledge of offender search requirements, noting that there have always been sufficient female staff on duty to meet search requirements. Staff commented on the use of alternative search methods, such as wandng the individual or employing a non-custody trained female staff member to conduct the search is needed. Several staff commented that even the Warden is available to conduct searches if ever needed.

Staff also noted the ability to contact local law enforcement agencies or representatives from Probation and Parole if a search was needed, but no staff were on site to perform it. This speaks highly of the collaborative relationship the facility has with these organizations and exceeds the requirements of this subsection.

115.15 (c)

Agency policy DOC 3.1.17, *Searches and Contraband Control*, 02/02/2017, section IV.B.2. (page 2 - 3), requires that, “Cross gender clothed body searches of all residents in juvenile facilities, juveniles, and adult females will be documented.”

During the audit documentation period, no cross-gender searches were conducted. As such, there is no secondary documentation available for review. However, all staff interviewed were very familiar with policy-based search restrictions and noted there have always been sufficient female staff on duty to meet offender search needs.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.15 (d)

Agency policy DOC 3.1.21, *Inmate Count and Supervision*, 12/16/2016, section IV.J.2. and 3. (page 4 – 5) requires that, “Facility procedures will ensure that inmates are able to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when viewing is incidental to routine cell checks. Procedures will require staff of the opposite gender to announce their presence when entering an inmate housing unit.”

Montana Women’s Prison Operational Procedure MWP 3.1.21, *Offender Count and Supervision Procedures* (01/09/2018), section III.A.1.e. (page 2), requires that, “All male staff when entering any unit will announce ‘male staff’ when entering a unit. (1) This will help ensure that inmates are able to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when viewing is incidental to routine cell checks. (2) Exception: when there are emergency situations and/or security issues that need to be handled inconspicuously male staff do not have to announce themselves. Always notify the Shift Lieutenant if these circumstances arise.”

The Auditor confirmed that there were no exigent circumstances at MWP during their audit documentation period that required deviations from the standard.

A majority of the offenders interviewed reported that male staff announce themselves when entering housing units. They also confirmed the ability to use the bathroom, change clothing, and shower without being seen by staff of the opposite gender.

Staff interviewed also confirmed cross-gender announcements on housing units, adding that male staff do not enter an offender's room alone and that any viewing would be accidental or incidental. The Team observed male staff consistently making the required announcements while touring the facility.

Several offenders in the upper floor units indicated that Correctional Officers could see into their cells when they were using the bathroom. It was learned that this was in conjunction with standard rounds. Cross-gender announcements were consistently made whenever a male staff, contractor, or visitor entered the housing units. Due to the layout and small size of the unit, it was recommended that the facility explore the option of adding frosting to the lower half of the window in the door to enhance privacy for offenders while still maintaining safety and security. The facility had initiated research while the Team was on site, working with the Team to determine the optimum height of this frosting. The Auditor was later provided with photographs of the installation of frosting on the lower portion of the cell door windows as identified.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.15 (e)

Agency policy DOC 3.1.17, *Searches and Contraband Control*, 02/02/2017, section IV.D.5. (page 3), requires that, "Staff are prohibited from searching or physically examining a transgender or intersex offender for the sole purpose of determining the offender's genital status."

All staff interviewed expressed knowledge of the prohibition of searching transgender offenders for the sole purpose of determining genital status. Most noted that if needed, this is something that would be determined by medical staff. The transgender offender interviewed also confirmed he had never been searched for this purpose.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.15 (f)

Agency policy DOC 3.1.17, *Searches and Contraband Control*, 02/02/2017, section IV.L. (page 5), requires that, "Facility administrators will require staff training to include the following procedures...how to conduct cross gender clothed body searches, and searches of transgender and intersex inmates, in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs."

A memo from the PCM indicates, "MWP used the National PREA Resource Centers 'Guidance on Cross-Gender and Transgender Pat Searches' Video...This training is done every 3 years and as of 07/11/2019, this video will be part of the initial videos new staff will watch prior to working with inmates. MDOC staff comprehensive PREA training also discusses cross-gender pat searches." The Auditor was informed that new security staff were required to complete pat search training on line, completing the National Institute of Corrections (NIC) Cross Gender Pat Training. This training is part of the initial on-line training that new security staff must complete before on-the-job training commences. The PCM noted that the

on-line training generally occurs on the first or second day of employment. The Auditor was able to view the video and confirmed inclusion of standard-required elements.

The Auditor was provided with curriculum for the course, *Searches – Control of Contraband* for the Montana Women's Prison version 3 (07/30/2019). The curriculum includes:

- "All searches should be conducted in a professional manner with minimal disruption to the area being searched." (slide 3)
- Clear definition of the types of body searches (slides 4 – 7)

The Auditor was also provided with the PowerPoint for Montana Department of Corrections, Staff PREA Training, Prison Rape Elimination Act (PREA) which includes information on the prohibition of cross-gender pat and body searches of female offenders.

With the initial documentation, the Auditor was provided with examples of training transcripts for five (5) custody staff members, demonstrating the completion of required cross-gender pat search training. The Auditor received additional training transcripts as follows and was able to verify training completion:

- Two (2) of six (6) Correctional Officer Supervisor / Managers, selecting the first and fourth names on an alphabetical list
- Four (4) of forty-four (44) Correctional Officers, selecting every twelfth name on an alphabetical list

All security staff and a significant number of non-custody staff interviewed confirmed completion of pat search training. It was noted that this is provided to staff on an annual basis.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy DOC 3.1.21, *Inmate Count and Supervision*, 12/16/2016
- Agency policy DOC 3.1.17, *Searches and Contraband Control*, 02/02/2017
- 07/11/2019 PCM memo regarding pat search training
- Montana Women's Prison Operational Procedure MWP 3.1.17b, *Offender Pat/Strip Search*, (04/26/2013)
- Montana Women's Prison Operational Procedure MWP 3.1.21, *Offender Count and Supervision Procedures* (01/09/2018)
- Training transcripts for select staff
- Rosters for pat search training
- 08/26/2019 memo from PCM regarding change to NIC on-line pat search training
- Photographs of the frosting applied to the lower portion of cell door windows

Interviews conducted:

- Non-Medical Staff involved in Cross-Gender Strip or Visual Searches
- Random Sample of Offenders
- Random Sample of Staff
- Transgender / intersex Offenders

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

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

115.16 (a)

- Does the agency take appropriate steps to ensure that inmates with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: inmates who are deaf or hard of hearing? Yes No
- Does the agency take appropriate steps to ensure that inmates with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: inmates who are blind or have low vision? Yes No
- Does the agency take appropriate steps to ensure that inmates with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: inmates who have intellectual disabilities? Yes No
- Does the agency take appropriate steps to ensure that inmates with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: inmates who have psychiatric disabilities? Yes No
- Does the agency take appropriate steps to ensure that inmates with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: inmates who have speech disabilities? Yes No
- Does the agency take appropriate steps to ensure that inmates with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: Other (if "other," please explain in overall determination notes)? Yes No
- Do such steps include, when necessary, ensuring effective communication with inmates who are deaf or hard of hearing? Yes No
- Do such steps include, when necessary, providing access to interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary? Yes No
- Does the agency ensure that written materials are provided in formats or through methods that ensure effective communication with inmates with disabilities including inmates who: Have intellectual disabilities? Yes No

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

115.16 (b)

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

115.16 (c)

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

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

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

115.16 (a)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.D.4. (page 6), required that, "Each facility must take appropriate steps to ensure offenders 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 offender education in formats accessible to all offenders, including those who are limited English proficient, deaf, visually impaired, or otherwise disabled, as well as to offenders who have limited reading skills.” This language is repeated in the Montana Women’s Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, (09/12/2017), section III.D.4. (page 6).

Agency policy DOC 3.3.15, *American with Disabilities Act (ADA) Offender Accommodations* (12/12/2016), section I. (page 1) specifies that, “The Department of Corrections will make reasonable accommodations to the known physical or mental limitations of an offender with a disability unless to do so would result in an undue financial or administrative burden, constitute a direct threat, endanger the health or safety of any person, or fundamentally alter the inherent nature of the Department’s business.” The same policy, section IV.B.1. (page 2), requires that, “The Department and contracted facilities or programs will provide offenders access to required or approved activities, services, and programs.” Section IV.B.5. (page 2), requires that, “Through the screening, assessment, and intake process, if an offender appears to need an accommodation, Department employees will notify the ADA coordinator.”

Per an email from the PCM, the Warden, Assistant Warden, Disciplinary Hearing Officer, and Grievance Coordinator recently attended an ADA conference (2018). The facility recently named an ADA Coordinator who is reviewing the materials from the most recent ADA training provided to staff. She also noted that ADA accommodations are documented in the Offender Management Information System (OMIS), which is available to all staff.

The Auditor was informed that the staff member who conducts offender PREA orientation also receives reports from the jail from which the offender is being transferred. This information in concert with the information available in OMIS and direct observation of the offender allows the staff member to identify those offenders who may need additional assistance understanding orientation information.

The Auditor was provided with *Ending the Silence, The Barter*, a PREA educational booklet produced by the National PREA Resource Center for use in explaining an offender’s rights and reporting mechanisms in one-on-one sessions with special needs offenders in which the use of pictures assists in explanation of needed information. It is noted that during the audit documentation period, no offender received, or offender currently housed in the facility expressed or displayed a need for the use of these materials. However, they are available and any use would be documented on the PREA Orientation Sheet that both the offender and staff member are required to sign.

Interviews conducted with disabled offenders confirmed the provision of PREA-related materials and information in manners in which they can understand. Offenders noted the provision of a screen, one-on-one classes, and access to the ADA Coordinator to assist them as needed. One offender noted difficulty with the use of the telephone because the volume was not loud enough for her to hear the prompts, adding that staff were always willing to assist her as needed. The facility immediately began research on how they can make the telephone more accessible for this offender without having to rely on staff assistance.

The establishment of procedures to provide inmates with disabilities and inmates who are limited English proficient equal opportunity to participate in or benefit from all aspects of the agency’s efforts to prevent, detect, and respond to sexual abuse and sexual harassment was also confirmed in an interview with the agency Director.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.16 (b)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.D.4. (page 6), requires that, "Each facility must take appropriate steps to ensure offenders 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 offender education in formats accessible to all offenders, including those who are limited English proficient, deaf, visually impaired, or otherwise disabled, as well as to offenders who have limited reading skills."

The Auditor was informed that MDOC uses the services of CyraCom International, Inc. for interpreter services and was provided with a copy of the current contract. The contract was signed 10/05/2018, is in effect through 07/31/2020, and notes that, "Contractor shall provide the Department the following: Over the Phone Interpreter (OPI), certified medical interpretation, and braille transcription services. Video translation services for American Sign Language. Languages will include, but not be limited to, Spanish, Russian, German, French, Montana Native American Tribes (based on availability), Mandarin, and Arabic...A certified interpreter will be available for all interpretation services...Telephone interpretation services will be available 24 hours a day, seven days a week, 365 days a year."

The Auditor was provided with a poster with instructions on system access that is posted in areas accessible to staff throughout the facility. The facility currently does not house Spanish-only speaking offenders and, as such, currently does not post the PREA posters in Spanish. It was noted that there are very few Spanish-only speaking offenders incarcerated throughout the agency. The Team did observe the audit notice posted in Spanish as it had been provided to the facility by the Auditor in both English and Spanish. The Auditor was also able to observe PREA information that had been created in Braille in the event it was ever needed for a blind offender.

The Auditor was also informed that MWP staff have not required the use of the interpreter service to date, however, if the service was used, it would be documented in the lieutenants' shift log. Additionally, the PCM would be notified if use of the line was related to PREA. Staff interviewed confirmed knowledge of the requirement to use this system if ever needed for translation purposes with an offender.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.16 (c)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.K.11. (page 12), requires that, "The facility will not rely on offender 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 offender's safety, the performance of first-response duties or the investigation of the offender's allegations."

Montana Women's Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, (09/12/2017), section III.K.11. (page 12), requires that, "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."

Knowledge of the prohibition of the use of offender interpreters and the procedures for use of the contracted interpreter service was confirmed in interviews with all staff interviewed. No staff recalled any incident in which an offender interpreter had been used.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017
- Agency policy DOC 3.3.15, *American with Disabilities Act (ADA) Offender Accommodations* (12/12/2016)
- 06/28/209 memo from the PREA Coordinator regarding interpreter and support services
- Contract with CyraCom International, Inc. signed 10/05/2018 and in effect through 07/31/2020
- Vioance, a CyraCom International company, poster with language system access instructions
- Agency PREA poster in Spanish
- Ending the Silence, The Barter, PREA educational booklet produced by the National PREA Resource Center
- Montana Women's Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, (09/12/2017)

Interviews conducted:

- Agency Head
- Inmates with Disabilities or who are LEP
- Random Sample of Staff

Standard 115.17: Hiring and promotion decisions

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

115.17 (a)

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

115.17 (b)

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

115.17 (c)

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

115.17 (d)

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

115.17 (e)

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

115.17 (f)

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

115.17 (g)

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

115.17 (h)

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

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

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

115.17 (a)

Agency policy DOC 1.3.55, *Criminal Conviction in Employment*, 08/28/2017, section IV.A.6. (page 2), requires that, "For positions which may have contact with offenders the Department will not hire, enlist the services of, or continue employment of an employee or service provider who: (a) has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution; (b) has been convicted of engaging in or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; (c) has been civilly or administratively adjudicated to have engaged in the activity described in paragraph (b) of this section; or (d) has contact with youth and is listed on the DPHHS child abuse registry."

During the application process, all applicants are required to answer the following question included in the Pre-Interview Questionnaire:

Did you ever engage in sexual abuse; been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or have been civilly or administratively adjudicated to have engaged in sexual activity of an abusive or without consent nature?

At the time of hire, the new employee is required to sign the Acknowledgement and Disclosure Form, which requires the individual completing the form to answer the following questions:

- *I have been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse. If the answer is yes, please provide the date of the event and the jurisdiction in which the event occurred.*
- *I have been civilly or administratively adjudicated to have engaged in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse. If the answer is yes, please provide the date of the event and the jurisdiction in which the event occurred.*
- *I have engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution. If the answer is yes, please [provide] the date of the event and the jurisdiction/location in which the event occurred.*

During the 12 months preceding the on-site review, MWP hired twenty (20) new staff. The Auditor received a hiring packet with the initial documentation provided. The Auditor then requested hiring packets from two additional new hires, one from custody staff ranks and one from health services. A review of these packets confirmed inclusion of the forms to gather and review standard-required information.

Additionally, MWP promoted four (4) individuals during their audit documentation period. The Auditor requested documentation of sexual misconduct disclosure for two (2) of these individuals and was informed by the PCM that the facility had previously identified a gap in the promotions process that left

this disclosure out of the on-boarding process. Facility processes were revised and the Auditor was provided with documentation of related training provided to the Human Resources Manager by the PREA Coordinator along with documentation related to the promotion of another facility staff member. It is noted that this is in relation to promotions only, not to new hires.

The Auditor reviewed a sampling of contracts issued by MWP for the provision of services. These contracts contained language that required that, "Contractor must, in performance of work under the Contract, fully comply with all applicable federal, state, or local laws, rules, and regulations." Newer contracts expanded this language to require that, "Contractor shall, in performance of work under this Contract, fully comply with applicable federal, state, or local laws, rules, regulations, and executive orders including but not limited to...the Prison Rape Elimination Act final rule 28 CFR Part 115, MDOC Policy 1.3.14, Prison Rape Elimination Act, and ACCD 1.3.1400 PREA to include incident reporting. CONTRACTOR shall establish a zero tolerance policy to incidents of sexual assault/rape or sexual misconduct."

During the audit documentation period, MWP enlisted the services of a total of 77 contractors. Of these, 54 began service during the facility's audit documentation period. The Auditor was provided with applicable current contracts, confirming the inclusion of PREA-related requirements. The Auditor requested and received documentation of criminal background checks for five (5) of these individuals, selecting every 10th individual on the list provided. The background check form includes the following questions:

- Have you ever been convicted of a felony?
- Have you ever been convicted of Partner Family Member Assault, either Felony or Misdemeanor, or been the subject of an Order of Protection?

There was no process currently in place for contractors to specifically disclose any sexual misconduct identified in the standard. Per the PREA Coordinator and PCM, a lieutenant has been assigned oversight of all contractors, including the requirement to have all current contractors review and sign the sexual misconduct disclosure form coupled with an applicable revision to facility procedures to ensure the implementation of a sustainable practice. The lieutenant was also charged with sustainability of this practice with all new contractors and maintenance of all applicable records. The Auditor was provided with documentation of training and a directive provided to the lieutenant by the PREA Coordinator along with examples of newly signed disclosure forms.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.17 (b)

Agency policy DOC 1.3.55, *Criminal Conviction in Employment*, 08/28/201, section IV.A.8. (page 2), requires that, "The Department will consider any incidents where an individual engaged in sexual harassment in determining whether to hire or promote, or to enlist the services of anyone, who may have contact with offenders."

At the time of hire, the new employee is required to sign the Acknowledgement and Disclosure Form, which requires the individual completing the form to answer the following questions:

- *I have engaged in sexual harassment of an inmate, detainee, or resident. If the answer is yes, please [provide] the date of the event and the jurisdiction/location in which the event occurred.*

During the 12 months preceding the on-site review, MWP hired twenty (20) new staff. The Auditor received a hiring packet with the initial documentation provided. The Auditor then requested hiring packets from two additional new hires, one from custody staff ranks and one from health services. A

review of these packets confirmed inclusion of the forms to gather and review standard-required information.

Additionally, MWP promoted four (4) individuals during their audit documentation period. The Auditor requested documentation of sexual misconduct disclosure for two (2) of these individuals and was informed by the PCM that the facility had previously identified a gap in the promotions process that left this disclosure out of the on-boarding process. Facility processes were revised and the Auditor was provided with documentation of related training provided to the Human Resources Manager by the PREA Coordinator along with documentation related to the promotion of another facility staff member. It is noted that this is in relation to promotions only, not to new hires.

During the audit documentation period, MWP enlisted the services of a total of 77 contractors. Of these, 54 began service during the facility's audit documentation period. The Auditor was provided with applicable current contracts, confirming the inclusion of PREA-related requirements. The Auditor requested and received documentation of criminal background checks for five (5) of these individuals, selecting every 10th individual on the list provided. The background check form includes the following questions:

- Have you ever been convicted of a felony?
- Have you ever been convicted of Partner Family Member Assault, either Felony or Misdemeanor, or been the subject of an Order of Protection?

There was no process currently in place for contractors to specifically disclose any sexual misconduct identified in the standard. Per the PREA Coordinator and PCM, a lieutenant has been assigned oversight of all contractors, including the requirement to have all current contractors review and sign the sexual misconduct disclosure form coupled with an applicable revision to facility procedures to ensure the implementation of a sustainable practice. The lieutenant was also charged with sustainability of this practice with all new contractors and maintenance of all applicable records. The Auditor was provided with documentation of training provided to the lieutenant by the PREA Coordinator along with examples of newly signed disclosure forms.

During an interview with Human Resources staff, the established process was also confirmed. It was reported that information would be obtained from the PCM via a database review, from reference checks and from background checks.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.17 (c)

Agency policy DOC 1.3.55, *Criminal Conviction in Employment*, 08/28/2017, section IV.A.9. (page 3), requires that, "OHR [Office of Human Resources] will conduct criminal background checks on employees and service providers who may have contact with offenders, and a DPHHS child abuse registry search for employee or service providers who may have contact with youth, upon hire, transfer promotion, and every five years to check for new convictions since the last background check." The same policy, section IV.B.1. (page 3) also requires, "Criminal background checks will be conducted on finalists for vacant positions, as identified in the vacancy announcement, and on all individuals assigned to work at the Department by service providers."

Each applicant is required to provide information regarding all institutional employers and responds to the following question included in the Pre-Interview Questionnaire:

- Have you ever worked in a community confinement setting (Nursing Home, Jail, Prison, Institution – any place someone did not have free will to leave)? If a "Yes" answer, please give the details.

Staff from Human Resources are required to complete a Reference Check Form, which includes a PREA Questions section “Required of applicants for positions that may have contact with inmates and who have community confinement work history”. The form requires the reviewer to include all information regarding substantiated allegations of sexual harassment and/or abuse and all instances in which the applicant resigned during an investigation into allegations of sexual abuse. The reviewer then must assess the individual as acceptable or unacceptable.

The PREA Coordinator indicated in a memo dated 04/29/2019 that during prior federal PREA audits, it was learned that “reference checks for new employees were stored in a hiring file separate from the employee’s personnel file. State policies required these records to be destroyed after two years. In late 2018, this was rectified as a result of our audits and documentation of the reference check is now kept in the employee personnel file. Employees hired prior to that time may not have an institution reference check in their records.”

During the 12 months preceding the on-site review, MWP hired twenty (20) new staff. The Auditor received a hiring packet with the initial documentation provided. The Auditor then requested hiring packets from two additional new hires, one from custody staff ranks and one from health services, both from the time period following correction of the identified records issue. A review of these packets confirmed inclusion of the forms to gather and review standard-required information.

Established processes were also confirmed in an interview with Human Resources staff.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.17 (d)

Agency policy DOC 1.3.55, *Criminal Conviction in Employment*, 08/28/2017, section IV.A.9. (page 3), requires that, “OHR [Office of Human Resources] will conduct criminal background checks on employees and service providers who may have contact with offenders, and a DPHHS child abuse registry search for employee or service providers who may have contact with youth, upon hire, transfer promotion, and every five years to check for new convictions since the last background check.” The same policy, section IV.B.1. (page 3) also requires, “Criminal background checks will be conducted on finalists for vacant positions, as identified in the vacancy announcement, and on all individuals assigned to work at the Department by service providers.”

The Auditor requested and received proof of sexual misconduct disclosure and criminal background checks for a random selection of contractors. These individuals were selected from the master list, ensuring representation from a variety of service areas, confirming compliance with standard requirements. The established process was confirmed in an interview with Human Resources staff, noting that a new process had been established that assigned responsibilities for these to one of the facility Lieutenants.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.17 (e)

Agency policy DOC 1.3.55, *Criminal Conviction in Employment*, 08/28/2017, section IV.C.1. (page 3), requires that, “Criminal background checks are conducted every five years on existing employees and service providers in accordance with the *Prison Rape Elimination Act of 2003*.”

MDOC documents criminal background checks on a summary sheet that documents whether the review is for a new employee, promotion, transfer, or 5-year background check. The form also documents NCIC

wants, Montana wants, sex offender history, convictions for sexual abuse in a confinement facility or in the community, protection order history, probation and/or parole history, and criminal histories on file.

Per the PCM, the following process was established to ensure criminal background checks were completed at least every 5-years for all employees and contractors:

In 2017, MWP went to the following schedule regarding ongoing criminal background checks – January 2020, January 2025, January 2030, etc. Currently Volunteers are on a yearly background check, all others were last background checked in 2017. All background checks are logged in the CJIN log and authorization forms all kept in the visiting office.

During on-site interviews, it was learned that oversight of this process was assigned to a Lieutenant. Criminal background checks are conducted for all employees and contractors each year in July. The Auditor requested and received verification of these checks for two (2) contractors and six (6) employees, selecting every tenth individual on the lists provided after eliminating new hires and new contractors, confirming compliance with standard requirements.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.17 (f)

Agency policy DOC 1.3.55, *Criminal Conviction in Employment*, 08/28/2017, section IV.A.7. and 11. (page 2 - 3), requires that, "Employees have a continuing affirmative duty to disclose any of the misconduct listed in Section IV.A.6...Employees must self-report criminal charges and convictions within five days to their immediate supervisor and OHR [Office of Human Resources]." (See auditor notes for 115.17 a for policy text.). The same policy, section IV.A.10. (page 3), requires that, "All employees who may have contact with offenders must complete the Policy Acknowledgement and Disclosure Form in written applications or interviews for hiring and promotion and annually. The form will be submitted to OHR."

The Acknowledgement and Disclosure Form asks the individual:

- *I have been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse. If the answer is yes, please provide the date of the event and the jurisdiction in which the event occurred.*
- *I have been civilly or administratively adjudicated to have engaged in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse. If the answer is yes, please provide the date of the event and the jurisdiction in which the event occurred.*
- *I have engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution. If the answer is yes, please [provide] the date of the event and the jurisdiction/location in which the event occurred.*
- *I have engaged in sexual harassment of an inmate, detainee, or resident. If the answer is yes, please [provide] the date of the event and the jurisdiction/location in which the event occurred.*

The Auditor requested and was provided with examples of these forms for four (4) current employees, verifying completion as identified in policy.

Agency policy DOC 1.3.2, *Performance and Conduct*, 01/03/2017, section IV.D.1. (page 2 – 3), requires that, "Performance and conduct behavior unacceptable for Department employees includes, but is not limited to, the following...failure to timely report policy violations, or job-related illegal or unethical behavior to the appropriate authority; failure to timely self-report an arrest, conviction, or professional

disciplinary action against a professional license required by the position.” Each employee is required to sign a State of Montana, Department of Corrections Code of Ethics, which required the employee to “report job-related illegal or unethical behavior to the appropriate authority.”

A thorough knowledge of and compliance with standard and policy requirements was confirmed in an on-site interview with Human Resources staff who also provided the Auditor with the Code of Ethics form and process synopsis.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.17 (g)

Agency policy DOC 1.3.55, *Criminal Conviction in Employment*, 08/28/2017, section IV.A.7. and 11. (page 2 - 3), requires that, “All employees who may have contact with offenders must complete the Policy Acknowledgement and Disclosure Form in written applications or interviews for hiring and promotion and annually.” The Acknowledgement and Disclosure Form requires the individual completing the forms to sign the following statement, “By my signature below, I affirm the above information to be true and complete. I understand that material omissions regarding misconduct or violations of the above noted policies shall be grounds for termination.”

The State of Montana, Department of Corrections Code of Ethics, which is required to be signed by all employees, states in part:

2. *I shall maintain respect and professional cooperation in my relationships with other Department staff member. I will not sexually harass or condone sexual harassment of any person. I shall treat others with dignity, respect, and compassion.*
3. *I shall report job-related illegal or unethical behavior to the appropriate authority.*
4. *I shall provide offenders with humane custody and care, void of retribution, harassment, abuse or mistreatment. I shall maintain confidentiality of information that has been entrusted to me and designated as such. I will not incur any personal obligation that could lead any person to expect official favors.*

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.17 (h)

Agency policy DOC 1.3.55, *Criminal Conviction in Employment*, 08/28/2017, section IV.E.3. (page 4), requires that, “The Department will provide information on substantiated allegations of sexual abuse or sexual harassment involving a former employee upon receiving a request from an institutional employer for whom the employee has applied to work.”

During an on-site interview, the Human Resources staff member confirmed a requirement to provide noted information upon request. He indicated that all such requests would be forwarded to the PCM for provision of any available information. This was confirmed with the PCM. There have been no applicable examples during the facility’s documentation period.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy DOC 1.3.55, *Criminal Conviction in Employment*, 08/28/2017
- Listing of all facility staff, highlighting those hired in the 12 months preceding the on-site review
- Examples of application packets for newly hired and promoted staff
- Agency policy DOC 1.3.2, *Performance and Conduct*, 01/03/2017

- State of Montana, Department of Corrections Code of Ethics 10/06/2014
- Blank Acknowledgement and Disclosure Form DOC1.3.55 attachment
- Blank Reference Check Form
- 04/29/2019 memo from the PREA Coordinator regarding institutional reference checks records retention
- Contract 13-023-MWP with South Central Treatment Associates in effect 03/27/2013 through 01/31/2020
- Contract 13-022-MWP with Eloise Leahy in effect 02/19/2013 through 06/30/2020
- Contract 15-003-MWP with Billings Public Schools in effect 07/14/2014 through 08/31/2020
- Contract COR-SVCS-2018-0186-MWP with Family Tree Center in effect 10/02/2018 through 06/30/2020
- Contract COR-SVCS-2018-0090-MWP with Grove Hull effective 11/03/2017 through 11/30/2019 along with notification of termination of contract dated 05/02/2019
- Documentation of regular criminal background checks for identified contractors and employees
- 08/20/2019 email from the PCM regarding sexual misconduct disclosure for promotions and contractors
- State of Montana Department of Corrections Code of Ethics form

Interviews conducted:

- Human Resources Staff

Standard 115.18: Upgrades to facilities and technologies

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

115.18 (a)

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

115.18 (b)

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

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

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

115.18 (a)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017 section IV.B.3. (page 3) requires that, "When designing or acquiring any new facility and in planning any substantial expansion or modification of existing facilities, 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 offenders from sexual abuse."

The Montana Women's Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, (07/17/2019), section III.B.3. (page 3), requires that, "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 the department's ability to protect inmates from sexual abuse. The PREA Compliance Manager will be included in the planning and implementation phase of any such expansions or modifications."

The Auditor was provided with a 03/05/2018 email from the PREA Coordinator to all administrators and wardens, indicating, "Please ensure that whenever there are upgrades to your facilities, whether physical plant upgrades or new technology, the PREA Compliance Manager (PCM) and/or I am involved in the discussions and plans for those upgrades. This means the PCM must be involved in meetings from the beginning of any new plans. Their involvement and input must be documented by meeting minutes, written approval of plans from a PREA compliance standpoint, memos to/from the PCM, etc."

The agency acquired no new facilities and there were no significant expansions or modifications to MWP since the last Department of Justice PREA audit conducted at MWP in 2017 and 2018. This was confirmed in an interview with the Warden.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.18 (b)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017 section IV.B.4. (page 3) requires that, "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 offenders from sexual abuse."

The Montana Women's Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, (07/17/2019), section III.B.4. (page 3), requires that, "When installing or upgrading 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 the department's ability to protect inmates from sexual abuse. The PREA Compliance Manager will be included in decisions to install or update monitoring technology."

There have been no new installations or upgrades to the existing monitoring technology system at MWP since the last DOJ PREA audit conducted at MWP in 2017 and 2018. During an interview with the Warden, she noted that approximately twenty (20) cameras have been replaced in the last six (6) months. The facility has additional cameras on hand that can be added if the infrastructure is modified to accommodate them. She added that staff are continuously reviewing camera locations, angles, and functionality to be able to modify as needed. Camera issues are routinely discussed in management meetings. The PCM also confirmed that recent camera-related activities consisted of replacement of existing cameras to replace non-functioning units or enhance quality.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017
- The Montana Women's Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, (07/17/2019)
- 03/05/2018 email from the PREA Coordinator to all administrators and wardens

Interviews conducted:

- Agency Head
- Warden

RESPONSIVE PLANNING

Standard 115.21: Evidence protocol and forensic medical examinations

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

115.21 (a)

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

115.21 (b)

- Is this protocol developmentally appropriate for youth where applicable? (N/A if the agency/facility is not responsible for conducting any form of criminal OR administrative sexual abuse investigations.) Yes No NA
- Is this protocol, as appropriate, adapted from or otherwise based on the most recent edition of the U.S. Department of Justice's Office on Violence Against Women publication, "A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents," or similarly comprehensive and authoritative protocols developed after 2011? (N/A if the agency/facility is not responsible for conducting any form of criminal OR administrative sexual abuse investigations.)
 Yes No NA

115.21 (c)

- Does the agency offer all victims of sexual abuse access to forensic medical examinations, whether on-site or at an outside facility, without financial cost, where evidentiarily or medically appropriate? Yes No
- Are such examinations performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) where possible? Yes No
- If SAFEs or SANEs cannot be made available, is the examination performed by other qualified medical practitioners (they must have been specifically trained to conduct sexual assault forensic exams)? Yes No
- Has the agency documented its efforts to provide SAFEs or SANEs? Yes No

115.21 (d)

- Does the agency attempt to make available to the victim a victim advocate from a rape crisis center? Yes No

- If a rape crisis center is not available to provide victim advocate services, does the agency make available to provide these services a qualified staff member from a community-based organization, or a qualified agency staff member? Yes No
- Has the agency documented its efforts to secure services from rape crisis centers? Yes No

115.21 (e)

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

115.21 (f)

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

115.21 (g)

- Auditor is not required to audit this provision.

115.21 (h)

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

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

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

115.21 (a)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.K.3. (page 11), requires that, "Administrators, or designees, will ensure all staff follow appropriate evidence procedures outlined in *DOC Policy 3.1.28 Crime Scene and Physical Evidence Preservation*."

Agency policy DOC 3.1.28, *Crime Scene and Physical Evidence Preservation*, 10/09/2015 details the agency's evidence protocol, including actions related to initial response, responsibilities of on-site staff, documentation, and evidence handling. Montana Women's Prison Operational Procedure MWP 3.1.28, *Crime Scene and Physical Evidence Preservation*, 06/14/2012, details actions to be taken by facility staff with regard to crime scene protection and evidence handling.

Basic evidence handling requirements are also addressed in Montana Department of Corrections, Staff PREA Training, Prison Rape Elimination Act (PREA) training curriculum, which is presented to all agency staff.

It is noted that investigators from the Office of Investigations are sworn peace officers and conduct all criminal investigations for the agency. Criminal investigations are not referred to an outside law enforcement agency for investigation.

It is noted that the PCM maintains all investigation reports and with these, the original of any video pulled in response to an investigation. When the investigator reviews the footage, he/she is provided with a copy and the PCM retains possession of the original at all times. This would be the same process for other items such as letters and cards obtained as part of an investigation. It is recommended that this practice continue, but that the PCM officially bags and documents chain of custody of this evidence with an evidence card or log in order to ensure the chain of evidence is maintained.

All staff interviewed expressed a knowledge of basic evidence collection and control procedures established by the agency. This included both custody and non-custody staff. All staff also confirmed a knowledge of MWP staff who are trained / assigned to conduct PREA investigations.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.21 (b)

Agency policy DOC 3.1.28, *Crime Scene and Physical Evidence Preservation*, 10/09/2015 details the agency's evidence protocol, including actions related to initial response, responsibilities of on-site staff, documentation, and evidence handling.

The Auditor reviewed the U.S. Department of Justice Office on Violence Against Women publication "A National Protocol for Sexual Assault Medical Forensic Examination", finding that the evidence protocol was compliant with the protocols and procedures detail in policy.

It is noted that MWP does not house youthful offenders and therefore would not be involved in the collection of evidence involving juvenile victims or perpetrators.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.21 (c)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.J.2. (page 10), requires that, "The administrator, or designee, will develop procedures for providing services to offenders 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."

The same policy, section IV.J.3. (page 10 – 11) requires that, "Department 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 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: 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 upon request from law enforcement, transport the victim to a community medical facility for evidence collection."

Policy language is mirrored in the Montana Women's Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

Offenders requiring a forensic medical examination are transported to either the Billings Clinic Hospital or St. Vincent's Healthcare. Prior to transport, authorized staff contact the facility, indicating that a SAFE/SANE is needed if available. Both hospitals are an option, with transport decisions based on SAFE/SANE availability and security factors determined by the Shift Commander. The Pre-Audit Questionnaire indicated that offenders in need of a forensic medical examination would be transported to either the Billings Clinic Hospital or St. Vincent Healthcare. The Auditor conducted interviews with individuals in the emergency rooms of these facilities and confirmed that forensic medical examinations would be conducted at the Billings Clinic Hospital where there are currently thirteen (13) SAFE/SANE certified individuals available to conduct such an exam. The interviewee noted that this number will soon be increasing to fifteen (15). The interviewee also noted that there should never be an instance when a SAFE/SANE was not available, but in such an unlikely scenario, a qualified emergency room nurse would assume the responsibilities. The interviewee from St. Vincent Healthcare indicated that they would only provide crisis care and then discharge the patient for transfer to the Billings Clinic Hospital for a forensic medical exam. She noted that St. Vincent Healthcare does not have a forensic medical examination program.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.21 (d)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.J.2. (page 10), requires that, "The administrator, or designee, will develop procedures for providing services to offenders 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."

The Auditor was provided with an agreement between MDOC / MWP and the YWCA Billings that went into effect 07/12/2019 and remains in effect until terminated. It is noted that this is an updated agreement to one that had been in place previously. This agreement states in part:

Montana Women's Prison agrees to:

D. Enable reasonable communication between inmates and the YWCA in as confidential a manner as possible. MWP will determine, in its sole discretion, whether the communication opportunity is reasonable in light of housing assignment, physical facility limitations, safety and security concerns, and operational considerations including staffing levels. MWP will also determine, in its sole discretion, whether the communication opportunity is as confidential as is possible in the circumstances of a secure prison facility. In that regard, MWP will facilitate as private an environment for such communications as is practical as determined by MWP in its sole discretion. Inmate phone calls (initiated or received by the inmate) are recorded pursuant to established Montana Department of Corrections policy subject to limited established exceptions and protocols. Inmate mail sent to the YWCA or from the YWCA will be treated as legal or privileged correspondence and may not be read by staff.

YWCA agrees to:

- A. Respond to requests from the MWP to provide advocacy when inmates are brought to a Billings area medical facility for sexual assault forensic medical exams.*
- B. Provide emotional support services and crisis intervention contacts to victims of sexual assault at the MWP, as resources allow.*

During the 12 months preceding the on-site review, no offenders were transported to designated community medical facilities for a forensic medical examination. However, the availability of advocacy services both at the hospital and following the exam were confirmed in an interview with representatives from the YWCA Billings.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.21 (e)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.J.2. (page 10), requires that, "The administrator, or designee, will develop procedures for providing services to offenders 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.”

The Auditor was provided with an agreement between MDOC / MWP and the YWCA Billings that went into effect 07/12/2019 and remains in effect until terminated. It is noted that this is an updated agreement to one that had been in place previously. This agreement states in part:

YWCA agrees to:

- A. Respond to requests from the MWP to provide advocacy when inmates are brought to a Billings area medical facility for sexual assault forensic medical exams.*
- B. Provide emotional support services and crisis intervention contacts to victims of sexual assault at the MWP, as resources allow.*

The Auditor conducted an interview with a representative from the YWCA Billings. The individual confirmed that they would be contacted to provide support services to any offender who was transported to a community facility for a forensic medical examination.

During the 12 months preceding the on-site review, no offenders were transported to designated community medical facilities for a forensic medical examination. However, the availability of advocacy services both at the hospital and following the exam were confirmed in an interview with a representative from the YWCA Billings. The representative noted that services are available based on offender request, adding that although there have been minimal such requests, the support services are continuously available. The PCM and PREA Coordinator also noted that offenders can contact the YWCA Missoula for services as well, but this would be limited to telephone-based support.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.21 (f)

Per an email received from the PREA Coordinator, all investigations are conducted internally. Criminal investigations are conducted by the agency Criminal investigators from the Office of Investigations, who are sworn peace officers. Agency policy DOC 3.1.19, *Investigation*, 12/14/2018, describes agency criminal investigation procedures. MWP does not rely on an external law enforcement agency to conduct criminal investigations.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.21 (g)

Per an email received from the PREA Coordinator, all investigations are conducted internally. Criminal investigations are conducted by the agency Criminal investigators from the Office of Investigations, who are also sworn peace officers. Agency policy DOC 3.1.19, *Investigation*, 12/14/2018, describes agency criminal investigation procedures.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.21 (h)

MWP has an agreement with the YWCA of Billings which includes the provision of support services for offenders. As a result, use of qualified staff to fulfil advocate roles is not applicable or needed. However, mental health providers confirmed the provision of local support to offenders in addition to what is provided by contracted advocates, based on the expressed wishes of the offender.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017
- Agency policy DOC 3.1.19, *Investigations*, 12/14/2018
- Agency policy DOC 3.1.28, *Crime Scene and Physical Evidence Preservation*, 10/09/2015
- Montana Women's Prison Operational Procedure MWP 3.1.28, *Crime Scene and Physical Evidence Preservation*, 06/14/2012
- Montana Department of Corrections, Staff PREA Training, Prison Rape Elimination Act (PREA) training curriculum
- Agreement between MDOC/MWP and the YWCA Billings in effect 07/16/2019 until terminated
- Montana Women's Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019
- 08/06/2019 email from the PREA Coordinator regarding investigation processes
- Master spreadsheet of all investigations during the audit documentation period

Interviews conducted:

- Offenders who Reported Sexual Abuse
- PREA Compliance Manager
- Random Sample of Staff
- SAFE/SANE Staff
- Representative from Community-Based Advocacy Organization

Standard 115.22: Policies to ensure referrals of allegations for investigations

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

115.22 (a)

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

115.22 (b)

- Does the agency have a policy and practice in place to ensure that allegations of sexual abuse or sexual harassment are referred for investigation to an agency with the legal authority to conduct criminal investigations, unless the allegation does not involve potentially criminal behavior? Yes No
- Has the agency published such policy on its website or, if it does not have one, made the policy available through other means? Yes No
- Does the agency document all such referrals? Yes No

115.22 (c)

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

115.22 (d)

- Auditor is not required to audit this provision.

115.22 (e)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

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

115.22 (a)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.K.1. and 4. through 7. (page 11) requires that, "All reported incidents of sexual abuse and sexual harassment will be investigated. 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...A Request for Investigation (RFI)* for all allegations of sexual abuse and sexual harassment will be sent to the Office of Investigations to initiate an investigation. The Office of Investigations will forward reports that do not rise to the level of a criminal investigation to the Office of Human Resources and/or the appropriate administrator, or designee, to be assigned to an investigator for an administrative investigation. 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*. Administrative investigations of employees will be conducted in accordance with *DOC 1.3.13 Administrative Investigations*; individuals assigned to conduct administrative investigations of employees will work in cooperation with the Office of Human Resources."

The Auditor also reviewed agency policies DOC 1.3.13, *Administrative Investigations* (03/11/2015) and DOC 3.1.19, *Investigations* (12/14/2018), which outline investigation processes across the agency.

Montana Women's Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019, section III.H.8. and 10. (page 10) requires that, "The Office of Investigations has primary jurisdiction over MWP's criminal investigations, therefore, MWP will report potential criminal conduct to the Office of Investigations...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." The same procedure, section III.K.1. and 4. (page 12), requires that, "All reported incidents of sexual abuse and sexual harassment will be investigated. Criminal investigations will be conducted by the Department's Office of Investigations in accordance with *DOC Policy 3.1.19 Investigations...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."

Per an email received from the PREA Coordinator, "Requests for investigation (RFIs) are sent to [the] Investigations Manager, in the Central Office. He is the one who determines whether the case will be investigated as a criminal case, administrative, or both. If it is criminal (i.e. meets one of our state statutes for potential criminal activity), it is assigned to one of our Department criminal investigators...Each criminal case is referred to the county or city prosecuting attorney. Administrative cases are conducted by trained staff at the facility. In addition to what is included in the flow charts, we do an extensive review of each case summary report for administrative investigations. Once the admin investigator completes their report, it is submitted to the PCM to review to ensure all the elements required by the standard were covered. Once the PCM reviews it, it is also sent to me for a second-level review, also to check that all elements were covered. The case is not approved to be closed until the investigator has completed a thorough investigation and the summary report reflects all steps taken and everything required in

standard 115.71. Our process ensures that each allegation received by the facility is sent to [the Department criminal investigator] and I so we are aware of every allegation. It also ensures that each investigation is completed because it has to go through us to be approved to be closed.”

The Auditor was provided with documentation of allegations received and investigations conducted, confirming that investigations were conducted as required by the standard.

During an interview, the Director confirmed that all allegations received are investigated. He noted that prior to his tenure, this wasn't always the case, but that procedures have changed to ensure this occurs. He added that they are at times challenged with local law enforcement not accepting a referral, but that they now have internal criminal investigators to ensure that level of investigation is also done when indicated. He reported that there are no excuses not to conduct an investigations, adding that PREA is a priority and Wardens are accountable for ensuring standards are met.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.22 (b)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.H.9. and 11. (page 9), requires that, “Potential criminal conduct will be reported to the LEAJ first, immediately followed by the Office of Investigations. If the Office of Investigations has primary jurisdiction over a facility’s criminal investigations, however, that facility will report potential criminal conduct only to the Office of Investigations... Reports of sexual abuse or sexual harassment by an employee, service provider, or offender will be forwarded to the Office of Investigations, facility PREA compliance manager and the Department PREA coordinator within one business day.” The same policy, section IV.K.1. (page 11) requires that, “All reported incidents of sexual abuse and sexual harassment will be investigated. 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*.”

The Montana Women’s Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019, section III.H.8. (page 10), requires that, “The Office of Investigations has primary jurisdiction over MWP’s criminal investigations, therefore, MWP will report potential criminal conduct to the Office of Investigations.”

Per an email received from the PREA Coordinator, all investigations are conducted internally. Criminal investigations are conducted by the Department Criminal investigators from the Office of Investigations. The Auditor was provided with an agreement between MDOC and the Montana Department of Justice, that states in part, “DOJ by designation of the Attorney General, will appoint qualified DOC personnel as criminal investigative agents...to investigate alleged criminal violations by offenders incarcerated or persons employed in a DOC or DOC-contracted facility or program...As a result of their agent status, DOC investigators shall be deemed ‘peace officers’.” This agreement went into effect 08/23/2016 and has no termination date. As a result of this agreement, investigators of the Office of Investigations have the authority to conduct criminal investigations. Agency policy DOC 3.1.19, *Investigation*, 12/14/2018, describes agency criminal investigation procedures. This policy, section IV.B.3. (page 4) requires, “Criminal investigations and administrative investigation are conducted separately. When it is unclear whether an incident is criminal or administrative in nature, Department employees will report the incident to the Office of Investigations. The OI will determine if a criminal investigation is warranted or will forward the information to the Office of Human Resources for administrative investigation.”

The agency maintains two policies that details investigatory processes. These two policies are posted to the agency’s public website:

- DOC 1.3.13, *Administrative Investigations* (03/11/2015) - <http://cor.mt.gov/Portals/104/Resources/Policy/Chapter1/1-3-13AdministrativeInvestigations.pdf>
- DOC 3.1.19, *Investigations* (12/14/2018) - http://cor.mt.gov/Portals/104/Resources/Policy/Chapter3/3-1-19%20Investigations%2003_11_15.pdf

It is noted that investigators from the Office of Investigations are sworn peace officers and conduct all criminal investigations for the agency. Criminal investigations are not referred to an outside law enforcement agency for investigation. All investigative staff interviewed confirmed that a formal investigation is conducted for every allegation received. MWP staff are authorized to conduct only administrative investigations. These staff noted that criminal investigations are assigned to specially trained agency criminal investigators, which was also confirmed in an interview with the chief of the Office of Investigations.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.22 (c)

Per an email received from the PREA Coordinator, all investigations are conducted internally. Criminal investigations are conducted by agency Criminal investigators from the Office of Investigations, who are also sworn peace officers. Agency policy DOC 3.1.19, *Investigation*, 12/14/2018, describes agency criminal investigation procedures.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.22 (d)

Per an email received from the PREA Coordinator, all investigations are conducted internally. Criminal investigations are conducted by agency Criminal investigators from the Office of Investigations, who are also sworn peace officers. Agency policy DOC 3.1.19, *Investigation*, 12/14/2018, describes agency criminal investigation procedures.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.22 (e)

Per an email received from the PREA Coordinator, all investigations are conducted internally. Criminal investigations are conducted by agency Criminal investigators from the Office of Investigations. Administrative investigations are conducted by specially trained facility staff. There is currently no Department of Justice component that is responsible for conducting administrative or criminal investigations.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017
- Agency policy DOC 1.3.13, *Administrative Investigations*, 03/11/2015
- Agency policy DOC 3.1.19, *Investigations*, 12/14/2018
- Montana Women's Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019
- Agreement between MDOC and the Montana Department of Justice in effect 08/23/2016 until terminated

- 08/06/2019 email from the PREA Coordinator regarding investigation processes
- Master spreadsheet of all investigations during the audit documentation period

Interviews conducted:

- Agency Head
- Investigative Staff

TRAINING AND EDUCATION

Standard 115.31: Employee training

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

115.31 (a)

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

115.31 (b)

- Is such training tailored to the gender of the inmates at the employee's facility? Yes No

- Have employees received additional training if reassigned from a facility that houses only male inmates to a facility that houses only female inmates, or vice versa? Yes No

115.31 (c)

- Have all current employees who may have contact with inmates received such training?
 Yes No
- Does the agency provide each employee with refresher training every two years to ensure that all employees know the agency's current sexual abuse and sexual harassment policies and procedures? Yes No
- In years in which an employee does not receive refresher training, does the agency provide refresher information on current sexual abuse and sexual harassment policies? Yes No

115.31 (d)

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

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

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

115.31 (a)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.C.1. and 2. (page 4 – 5) requires that,

Prior to working with offenders, all Department employees with direct and/or incidental contact with offenders must receive documented PREA training. If an employee is unable to attend comprehensive PREA classroom training prior to contact with offenders, they must receive pre-service training in the form of reviewing the PREA policy and a PREA brochure and signing an acknowledgment form. The employee must then attend the next available classroom training. Comprehensive classroom training and pre-service training will include, but is not limited to: (a) review of this policy, 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 the department's sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures; (d) an offender's right to be free from sexual abuse and sexual harassment; (e) offender 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 offenders; (j) how to communicate effectively and professionally with offenders 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.

The Auditor was provided with Montana Department of Corrections Staff PREA Training, Prison Rape Elimination Act training curriculum for 2017 and 2019 (PowerPoint presentations and lesson plan). The Auditor confirmed inclusion of all standard-required elements in both curricula. Per the PREA Coordinator, "Employees are given a participant manual at the beginning of each classroom training and must complete a test at the end of each classroom training."

While on site, an interview with the Training Manager confirmed that all staff have completed the required training. This was also confirmed in on-site interviews with randomly selected staff who were able to articulate the standard-required elements included in the training completed.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.31 (b)

Agency policy DOC 1.1.17, Prison Rape Elimination Act of 2003 (PREA), 09/12/2017, section IV.C.2. (page 4), requires that, "Comprehensive classroom training and pre-service training will include, but is not limited to...gender specific information tailored to the gender of the offenders at the facility."

The Auditor was provided with Montana Department of Corrections Staff PREA Training, Prison Rape Elimination Act (PREA) curriculum for the 2017 and 2019 in-person training. This training addresses the dynamics of incarceration for both male and female offenders. As a result, all participants receive information applicable to all facilities in the agency and are not required to receive additional training when transferring to a facility that houses only male offenders to a facility that houses only female offenders, or vice versa.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.31 (c)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.C.3. (page 5) requires that, "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."

Per a memo authored by the PREA Coordinator, in-person classroom training was provided to all staff in 2017 and is underway in 2019. During 2018, staff were required to complete an online refresher training course that included basic information in the form of a pod-cast, a policy review, a quiz all staff were

required to complete demonstrating an understanding of training and policy, and an acknowledgement of training understanding. All staff were notified of the availability of training on 07/30/2018 via email and were required to complete the training by 11/01/2018. Upon completion, all staff were issued a certificate confirming completion. The Auditor was provided with the audio “pod-cast” of the introduction to the refresher training beginning in 07/2018, which explained the refresher training process (every other year) and the requirement to review the policy that had just been updated 06/2018. Staff were also instructed to sign a form acknowledging that they had read and understood the policy. The introduction also reviewed first responder responsibilities and reminded all staff that compliance is everyone’s responsibility.

The PREA Coordinator also noted that, “For staff who cannot attend training prior to having contact with inmates, there is a Pre-Service Brochure and Sign-Off form which provides the minimum required information. Staff who sign this brochure must attend the next available classroom training.” The Auditor was provided with the brochure, *Prison Rape Elimination Act (PREA) Pre-Service Orientation*, confirming it includes required information regarding zero tolerance, prevention, detection, reporting, response, dynamics of sexual abuse in confinement, and common reactions. The Auditor was also provided with a blank “Employee Pre-Service PREA Acknowledgement” form which states, “I have read and understand the content of the PREA Brochure and understand my responsibilities. I understand I will need to complete the comprehensive employee PREA training.”

The Auditor requested and received documentation in the form of training transcripts for eight (8) randomly selected individuals, confirming completion of required full and refresher training. It is noted that MWP training runs on a calendar year cycle.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.31 (d)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.C.7. (page 4) requires that, “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.”

The Auditor was provided with the Comprehensive PREA Training Acknowledgement form, in which the participant verifies, “I...acknowledge that I have received and understand comprehensive PREA training...” The Auditor was also provided with a roster which notes, “My signature indicates that I received and understand this training.” Both of these are used for participants to acknowledge an understanding of the in-person (classroom) training provided. The Auditor was also provided with an electronic acknowledgement of understanding form which states, “By clicking this button, I acknowledge that I have listened to and understand the PREA Refresher Training podcast and that I have read and understand DOC Policy 1.1.17 Prison Rape Elimination Act.” This is used to confirm understanding following the completion of refresher information sessions provided every other year.

While on site, an interview with the Training Manager confirmed that all staff have completed the required training. He added that the training is provided annually by the PREA Coordinator, with staff required to sign rosters and acknowledgement forms when training is completed.

The Auditor requested and received documentation in the form of an acknowledgement of understanding of training provided for eight (8) randomly selected individuals, confirming compliance with standard requirements.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017
- Montana Department of Corrections Staff PREA Training, Prison Rape Elimination Act training curriculum for 2017 and 2019 (PowerPoint presentations and lesson plan)
- Blank PREA Training Acknowledgement form
- Blank Corrections Training Roster
- Blank electronic acknowledgement of understanding form
- Email dated 07/30/2018 from the PREA Coordinator announcing annual refresher training
- 01/24/2019 memo from the PREA Coordinator providing explanatory information regarding staff training
- Blank 2019 PREA Refresher Training Test
- 2019 PREA refresher training completion certificate
- Brochure, *Prison Rape Elimination Act (PREA) Pre-Service Orientation*
- Blank "Employee Pre-Service PREA Acknowledgement" form
- Training transcripts and acknowledgement of understanding for select staff

Interviews conducted:

- Random Sample of Staff
- Training Manager

Standard 115.32: Volunteer and contractor training

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

115.32 (a)

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

115.32 (b)

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

115.32 (c)

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

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

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

115.32 (a)

Agency policy DOC 1.3.16, *Volunteer Services*, 01/07/2015, section IV.D.2. (page 3) requires that, "Volunteers with direct and/or incidental contact with offenders must receive documented PREA training during volunteer orientation in accordance with *DOC 1.1.17 Prison Rape Elimination Act (PREA)*."

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.C.4. (page 4) requires that, "All volunteers and service providers who have contact with offenders will be trained at a minimum on the Department's zero tolerance policy concerning sexual abuse and

harassment, prevention, detection, and response methods, and how to report such incidents.” This language is mirrored in the Montana Women’s Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

The Auditor was provided with the brochure, *Prison Rape Elimination Act (PREA) Volunteer/Contractor* which includes information regarding zero tolerance, prevention, detection, reporting, response, dynamics of sexual abuse in confinement, common reactions, avoiding inappropriate relationships, and communicating professionally with LGBTI and gender non-conforming offenders. It was noted that this is provided to all contractors and volunteers.

While on site, an interview with the Training Manager confirmed that all contractors and volunteers are required to complete PREA training annually. He added that the training is provided by the PREA Coordinator, with staff required to sign rosters and acknowledgement forms when training is complete. The Auditor was informed that management of all contractors, volunteers and visitors was overseen by a designated Lieutenant.

The Auditor randomly selected nine (9) contractors from the master list of 77 individuals, one from each area of service provision (e.g., medical, dental, kitchen, mental health, education, etc.). The Auditor was then provided with documentation of training completion for seven (7) of these individuals with notation that the remaining two (2) were one-time visitors who were under escort by staff at all times.

The Auditor randomly selected a total of nine (9) volunteers from the complete list containing 241 individuals, ensuring even distribution throughout the list provided. The Auditor was then provided with documentation of training completion in the form of the Service Provider PREA Acknowledgement, which also confirms an understanding of the policy’s terms and directives. Also provided was documentation of the sexual misconduct questionnaire, in which the volunteer confirmed a lack of participation in the identified prohibited acts.

Volunteers and contractors interviewed while on site confirmed annual completion of PREA training.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.32 (b)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.C.4. (page 4), requires that, “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.” Section C.2. requires,

Comprehensive classroom training and pre-service training will include, but is not limited to: (a) review of this policy, 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 the department’s sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures; (d) an offender’s right to be free from sexual abuse and sexual harassment; (e) offender 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 offenders; (j) how to communicate effectively and professionally with offenders 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.

This language is mirrored in the Montana Women's Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

All contractors and volunteers, regardless of level of service are provided with the brochure, *Prison Rape Elimination Act (PREA) Volunteer/Contractor* which includes information regarding zero tolerance, prevention, detection, reporting, response, dynamics of sexual abuse in confinement, common reactions, avoiding inappropriate relationships, and communicating professionally with LGBTI and gender non-conforming offenders. The facility requires annual training for all volunteers and for contractors who may have unescorted contact with offenders. Per 115.32 (a), the Auditor confirmed completion of required annual training. Additionally, the facility has identified "vendors" as those individuals who fill vending machines, repair items within the facility, etc.; basically those individuals who are directly supervised by staff at all times and are never permitted unsupervised contact with any offender. These individuals are required to read and sign the Contractor / Volunteer PREA Acknowledgement, confirming that they have read and understand the content of the PREA brochure and understand their responsibilities.

Completion of required training along with a demonstrated knowledge of training basics, zero-tolerance, and reporting requirements and procedures were confirmed in on-site interviews with volunteers and contractors.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.32 (c)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.C.4. (page 4) requires that, "Volunteers and service providers will sign a training acknowledgement form." The same policy, section IV.C.7. (page 4) also requires that, "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."

The Auditor was provided with the Contractor/Volunteer PREA Acknowledgement form which states, "I have read and understand the content of the PREA Brochure and my responsibilities as a volunteer or contractor."

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017
- Agency policy DOC 1.3.16, *Volunteer Services*, 01/07/2015
- Listing of all MWP volunteers
- Listing of all MWP contractors
- Listing of MWP vendors
- Blank Contractor/Volunteer PREA Acknowledgement form
- Brochure, *Prison Rape Elimination Act (PREA) Volunteer/Contractor*
- Montana Women's Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019
- Training completion documentation for select volunteers and contractors

Interviews conducted:

- Training Manager
- Volunteers and Contractors who have Contact with Offenders

Standard 115.33: Inmate education

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

115.33 (a)

- During intake, do inmates receive information explaining the agency's zero-tolerance policy regarding sexual abuse and sexual harassment? Yes No
- During intake, do inmates receive information explaining how to report incidents or suspicions of sexual abuse or sexual harassment? Yes No

115.33 (b)

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

115.33 (c)

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

115.33 (d)

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

- Does the agency provide inmate education in formats accessible to all inmates including those who have limited reading skills? Yes No

115.33 (e)

- Does the agency maintain documentation of inmate participation in these education sessions? Yes No

115.33 (f)

- In addition to providing such education, does the agency ensure that key information is continuously and readily available or visible to inmates through posters, inmate handbooks, or other written formats? Yes No

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

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

115.33 (a)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.D.1. (page 5), requires that, "Within 72 hours of facility intake for adult offenders and during the intake process for residents at juvenile facilities, employees will communicate to offenders, 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 policy, 1.3.12 *Staff Association and Conduct with Offenders*, 3.3.3 *Offender Grievance Program*, and corresponding site-specific procedures.

The PCM provided a memo that explained the offender intake process, "Upon arrival, Inmates receive a PREA brochure (End the Silence) with their hygiene kit. The inmate must sign an Intake Processing Checklist when they receive the kit." The Auditor was provided with a copy of this brochure and confirmed it included information regarding the offenders' right to report, how to report, external reporting options, zero tolerance, and tips for avoiding sexual abuse and sexual harassment.

This process was confirmed in an interview with an intake staff member, who was randomly selected from the two designated individuals. The intake staff reported that all offenders are seen by medical providers for assessments following the initial intake procedures (strip searches, provision of clothing, etc.). Offenders receive PREA-related information from these medical providers. Offenders are also provided with a hygiene kit containing the general PREA and advocacy brochures, which are left on the bed in their assigned cell. The inclusion of this information was confirmed by the Auditor via an inspection of these hygiene kits. The intake staff reported that even if an offender is disruptive during the intake process or is scheduled to be immediately housed in segregated housing, the offender will be held in the intake area until they are able to complete the intake process.

The Auditor received a listing of all 188 offenders who had been received by MWP between 06/01/2018 and 05/31/2019, selecting the sixth offender for each of the twelve months represented by the list. The Auditor received the Intake Processing Checklist for each of these offenders, confirming the provision of PREA-related information immediately on intake. The PREA brochure is provided with the hygiene kits provided to all offenders. It is noted that recently the property office began issuing the hygiene kit with sweats and footwear. When this change was made, the staff in the area stopped initialing the checklist to document provision of these items, noting that these are issued to all offenders during the intake process, so it is not always documented. The PCM reviewed this process with applicable staff, revising processes to ensure staff are now initialing and dating the checklist. The Auditor also observed the prepared hygiene kits in the intake area, confirming inclusion of the offender brochure.

During interviews conducted while on-site, a majority of offenders confirmed the receipt of PREA-related information on intake in their intake kits.

It is noted that agency policy requires the provision of PREA-related information within 72 hours of arrival, which is not compliant with the “upon intake” requirement of the standard. MWP is assessed as compliant with this subsection as offenders are being provided the required information on intake; however, it is recommended that policy language be updated on the policy’s next revision.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.33 (b)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.D.2. (page 4) requires that, “Within 30 days of intake for adult offenders, or within 10 days of intake for residents at juvenile facilities, the facility will provide education to offenders either in person or through video regarding their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents, and regarding facility procedures for reporting and responding to such incidents.”

The Montana Department of Corrections uses the offender education video produced by Just Detention International (JDI). The video is also available in Spanish and with closed captioning in both English and Spanish. The Auditor viewed the video and was also provided with a transcript of the video, confirming the inclusion of standard-required elements.

The PCM provided a memo that explained the offender orientation process, “Within 30 days of intake, all inmates must attend a mandatory PREA orientation. This orientation is held every other Wednesday. The orientation consists of a PREA video, rules and regulation handout, Q & A time and sign off sheet.”

The Auditor received a listing of all 188 offenders who had been received by MWP between 06/01/2018 and 05/31/2019, selecting the sixth offender for each of the twelve months represented by the list. The

Auditor received the Offender PREA Acknowledgement form for each of the identified offenders. Each offender is required to sign this form, with signatures witnessed by a designated staff member. The form requires the offender confirm that she:

- a) *have received a copy of DOC Policy 1.3.12, Staff Association and Conduct With Offenders, DOC Policy 1.1.17, Prison Rape Elimination Act of 2003 (PREA), and DOC Policy 3.3.3, Offender Grievance Program,*
- b) *have read, or had these policies read to me, and understand the policies' terms and directives,*
- c) *understand that I have a right to be free from sexual abuse, sexual harassment, and retaliation for reporting such incidents; and*
- d) *have been informed how to report such incidents.*

The provision of formal orientation within 30 days along with the provision of PREA-related information on arrival was confirmed in an interview with intake staff and a majority of the random sample of offenders interviewed.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.33 (c)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.D.3. (page 6), required that, "Offenders will receive education upon transfer to a different facility regarding any policies and procedures of the offender's new facility that differ from those of the previous facility."

The Auditor was provided with documentation of the provision of PREA orientation information to the seventeen (17) offenders currently housed at MWP who have been housed there consistently since the PREA standards were implemented in August 2012.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.33 (d)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.D.4. (page 6) requires that, "Each facility must take appropriate steps to ensure offenders 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 offender education in formats accessible to all offenders, including those who are limited English proficient, deaf, visually impaired, or otherwise disabled, as well as to offenders who have limited reading skills."

The Auditor was provided with *Ending the Silence, The Barter*, a PREA educational booklet produced by the National PREA Resource Center for use in explaining an offender's rights and reporting mechanisms in one-on-one sessions with special needs offenders in which the use of pictures assists in explanation of needed information. It is noted that during the audit documentation period, no offender received, or offender currently housed in the facility expressed or displayed a need for the use of these materials. However, they are available any and use would be documented on the PREA Orientation Sheet that both the offender and staff member are required to sign.

The Auditor was informed that MDOC used the services of CyraCom International, Inc. for interpreter services and was provided with a copy of the current contract. The contract was signed 10/05/2018, is in effect through 07/31/2020, and notes that, "Contractor shall provide the Department the following: Over the Phone Interpreter (OPI), certified medical interpretation, and braille transcription services. Video

translation services for American Sign Language. Languages will include, but not be limited to, Spanish, Russian, German, French, Montana Native American Tribes (based on availability), Mandarin, and Arabic...A certified interpreter will be available for all interpretation services...Telephone interpretation services will be available 24 hours a day, seven days a week, 365 days a year.”

The Auditor was also informed that MWP staff have not required the use of the interpreter service to date, however, if the service was used, it would be documented in the lieutenants’ shift log. Additionally, the PCM would be notified if use of the line was related to PREA.

The Auditor was provided with the poster with instructions on system access that is posted in areas accessible to staff throughout the facility. The facility currently does not house Spanish-only speaking offenders and, as such, currently does not post the PREA posters in Spanish. It was noted that there are very few Spanish-only speaking offenders incarcerated throughout the agency. The Team did observe the audit notice posted in Spanish as it had been provided to the facility by the Auditor in both English and Spanish. The Auditor was also able to observe PREA information that had been created in Braille in the event it was ever needed for a blind offender.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.33 (e)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.D.5. (page 6), requires that, “The facility will maintain documentation of offender participation in PREA education sessions and have offenders sign an acknowledgment form.”

The Auditor received a listing of all 188 offenders who had been received by MWP between 06/01/2018 and 05/31/2019, selecting the sixth offender for each of the twelve months represented by the list. The Auditor received the Intake Processing Checklist for each of these offenders, confirming the provision of PREA-related information immediately on intake.

The Auditor was provided with examples of Offender PREA Acknowledgement forms, which offenders are required to sign following the completion of orientation. The form requires the offender confirm that she:

- (1) *have received a copy of DOC Policy 1.3.12, Staff Association and Conduct With Offenders, DOC Policy 1.1.17, Prison Rape Elimination Act of 2003 (PREA), and DOC Policy 3.3.3, Offender Grievance Program,*
- (2) *have read, or had these policies read to me, and understand the policies’ terms and directives,*
- (3) *Understand that I have a right to be free from sexual abuse, sexual harassment, and retaliation for reporting such incidents; and*
- (4) *have been informed how to report such incidents.*

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.33 (f)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.D.6. (page 6), requires that, “The facility will ensure that PREA information is continuously and readily available or visible to offenders through posters, offender handbooks, or other written formats.”

The Auditor was provided with the agency’s PREA poster, which was observed in offender-accessible areas throughout the facility. All offenders interviewed indicated that the posters have always been up and they knew where to locate them and what information they contained.

The Auditor was also provided with the MT Women's Prison Inmate Handbook (revise 2019), which is provided to each offender on intake. The handbook provides all offenders information about PREA, to include, but not limited to:

- How to report,
- Zero tolerance,
- Malicious or false reporting,
- Victim services, and
- Definitions of prohibited acts.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017
- End the Silence PREA brochure for offenders
- Examples of Montana Women's Prison Intake Processing Checklists
- Examples of Offender PREA Acknowledgement forms
- 07/05/2019 memo from the PCM regarding intake and orientation processes
- Just Detention International offender orientation video and transcript
- Listing of all offenders received by MWP between 06/01/2018 and 05/31/2019
- MT Women's Prison Inmate Handbook (revise 2019)

Interviews conducted:

- Intake Staff
- Random Sample of Offenders

Standard 115.34: Specialized training: Investigations

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

115.34 (a)

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

115.34 (b)

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

115.34 (c)

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

115.34 (d)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

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

115.34 (a)

Agency policy DOC 3.1.19, *Investigations*, 12/14/2018, section IV.A.3.f. (page 3), requires that, "Investigators must...complete specialized training prior to conducting sexual assault or other specialty type investigations."

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.C.6. (page 4), requires that, "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." The same policy, section IV.K.2. (page 11) requires that, "Administrative investigations of sexual abuse or sexual harassment allegations will be conducted by trained Department employees." This language is mirrored in the Montana Women's Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

The PREA Coordinator indicated in a memo that investigators are required to complete two National Institute of Corrections (NIC) training courses:

- PREA: Investigating Sexual Abuse in a Confinement Setting - The main purpose of this course is to assist agencies in meeting the requirements of Prison Rape Elimination Act (PREA) Section 115.34 Specialized Training for Investigators. At the end of this course, you will be able to explain the knowledge, components, and considerations that an investigator must use to perform a successful sexual abuse or sexual harassment investigation consistent with PREA standards.
- PREA: Investigating Sexual Abuse in a Confinement Setting: Advanced Investigations - The purpose of the course is to assist agencies in meeting the requirements of PREA standard 115.34 Specialized training: Investigations by providing case studies that allow investigators to apply and practice their investigative skills to conduct appropriate investigations in accordance with PREA standards. At the end of the course, learners will be able to articulate some of the unique aspects of investigating sexual abuse of inmates in confinement settings.

The agency also developed department-level investigator training which was first launched in November 2017 and updated in March 2018, May 2018, June 2018, January 2019, and June 2019.

The Auditor was provided with a listing of twenty-one (21) MWP staff who are authorized to complete PREA-related investigations. The Auditor also received training rosters documenting completion of PREA Administrative Investigations for all staff identified as facility investigators.

During interviews with both facility and agency level investigators, interviewees confirmed completion of the required specialty training and were able to articulate the standard-required elements of that training.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.34 (b)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.C.6. (page 4), requires that, "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."

The Auditor was provided with PREA Administrative Investigations training curriculum, including all revisions since implementation 11/21/2017. All versions of the curriculum included standard-required elements. The most recent revision includes the following modules:

- Montana DOC's Investigative Protocols under the PREA Policy 1.1.17
- Definitions related to Sexual Abuse and Sexual Harassment (PREA 115.6)
- Referral Process – Inmate on Inmate Sexual Harassment and Sexual Abuse
- Staff Misconduct Referral Process to include Sexual Harassment and Sexual Abuse
- Review PREA Standards
- Interviewing and Questioning
- Report Writing
- Investigative Steps
- Writing the Final PREA Summary Report
- Agency Review of PREA Summary Report
- Building the Case File
- Investigation Practical

During interviews with both facility and agency level investigators, interviewees confirmed completion of the required specialty training and were able to articulate the standard-required elements of that training.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.34 (c)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.C.7. (page 4), requires that, "All training will be documented, through signature or electronic verification, showing acknowledgement that the employee, volunteer, or service provider received and understood the training."

The Auditor was provided with a listing of twenty-one (21) MWP staff who are authorized to complete PREA-related investigations. The Auditor also received training rosters documenting completion of PREA Administrative Investigations for all staff identified as facility investigators.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.34 (d)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.C.7. (page 4), requires that, “All training will be documented, through signature or electronic verification, showing acknowledgement that the employee, volunteer, or service provider received and understood the training.”

The Auditor was provided with a listing of twenty-one (21) MWP staff who are authorized to complete PREA-related investigations. The Auditor also received training rosters documenting completion of PREA Administrative Investigations for all staff identified as facility investigators.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy DOC 3.1.19, *Investigations*, 12/14/2018
- Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017
- List of MWP investigators
- Rosters for PREA Administrative Investigations training
- 05/30/2019 memo from the PREA Coordinator regarding investigator training requirements
- Montana Women’s Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019
- MDOC PREA Administrative Investigation training curriculum 11/21/2017, 06/25/2018,03/22/201805/14/2018, 01/17/2019, and 06/04/2019

Interviews conducted:

- Investigative Staff

Standard 115.35: Specialized training: Medical and mental health care

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

115.35 (a)

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

115.35 (b)

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

115.35 (c)

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

115.35 (d)

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

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

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

115.35 (a)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.C.5. (page 4), requires that, "Medical and mental health providers will receive additional, specialized training relevant to their role in detecting and assessing signs of sexual abuse and sexual harassment, preservation of evidence, and responding effectively to victims of sexual abuse and sexual harassment." This language is mirrored in the Montana Women's Prison Operational Procedure 1.1.17, *Prison Rape Elimination Act of 2003*, 07/17/2019.

Per a memo received from the PREA Coordinator, all medical and mental health staff are required to complete specialized training through the National Institute of Corrections (NIC):

- PREA - Medical Health Care for Sexual Assault Victims in a Confinement Setting - The purpose of this course is to assist agencies in meeting the requirements of the Prison Rape Elimination Act (PREA) Section 115.35 Specialized training: Medical and mental health care. At the end of this course, you will be able to explain the PREA standards that relate to the provision of medical care for victims of sexual abuse. You will also be able to describe your role and responsibilities in providing this care.
- PREA – Behavioral Health Care for Sexual Assault Victims in a Confinement Setting - The main purpose of this course is to assist agencies in meeting the requirements of Prison Rape Elimination Act (PREA) standard 115.35 Specialized Training: Medical and Mental Health Care. At the end of this course, you'll be able to explain the knowledge, components, and considerations that you must use to be effective in your role as a behavioral health care practitioner, consistent with PREA standards.

Completion of required specialty training is also confirmed in a review of the individuals personnel file as documented in the Office of Human Resources Personnel File Checklist.

The Auditor was provided with a listing of eleven (11) employee and six (6) contracted health services staff. The Auditor was also provided with training transcripts and certificates of completion documenting the completion of required specialty training for six (6) of the MWP employees and two (2) contractors selected by the Auditor.

During on-site interviews, two of the four individuals interviewed did not recall having completed the required specialty training, however, they were able to articulate the elements identified in this subsection. The Auditor was provided with training transcripts confirming completion of the required training by both of the identified individuals. Additionally, the PCM met with both individuals to clarify the Auditor's question regarding training and confirm a thorough understanding of the training completed.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.35 (b)

115.35 (c)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.C.7. (page 4), requires that, "All training will be documented, through signature or electronic verification, showing acknowledgement that the employee, volunteer, or service provider received and understood the training."

The Auditor was provided with a listing of eleven (11) employee and six (6) contracted health services staff. The Auditor was also provided with training transcripts and certificates of completion documenting the completion of required specialty training for six (6) of the MWP employees and two (2) contractors selected by the Auditor.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.35 (d)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.C.1. and 5. (page 4), requires that, "Prior to working with offenders, all Department employees with direct and/or incidental contact with offenders must receive documented PREA training... Medical and mental health providers will receive additional, specialized training relevant to their role in detecting and assessing signs of sexual abuse and sexual harassment, preservation of evidence, and responding effectively to victims of sexual abuse and sexual harassment."

The Auditor was provided with a listing of eleven (11) employee and six (6) contracted health services staff. The Auditor was also provided with training transcripts documenting completion of specialty and general PREA training for six (6) of the MWP employees and two (2) contractors selected by the Auditor.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017
- Montana Women's Prison Operational Procedure 1.1.17, *Prison Rape Elimination Act of 2003*, 07/17/2019
- 10/19/2017 memo from the PREA Coordinator regarding NIC training
- Listing of employee and contract health services staff
- Training transcripts and certificates of completion for select health service staff (employees and contractors)
- Blank Office of Human Resources Personnel File Checklist

Interviews conducted:

- Medical and Mental Health Staff

SCREENING FOR RISK OF SEXUAL VICTIMIZATION AND ABUSIVENESS

Standard 115.41: Screening for risk of victimization and abusiveness

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

115.41 (a)

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

115.41 (b)

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

115.41 (c)

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

115.41 (d)

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (1) Whether the inmate has a mental, physical, or developmental disability? Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (2) The age of the inmate? Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (3) The physical build of the inmate? Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (4) Whether the inmate has previously been incarcerated? Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (5) Whether the inmate's criminal history is exclusively nonviolent?
 Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (6) Whether the inmate has prior convictions for sex offenses against an adult or child? Yes No

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (7) Whether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming (the facility affirmatively asks the inmate about his/her sexual orientation and gender identity AND makes a subjective determination based on the screener's perception whether the inmate is gender non-conforming or otherwise may be perceived to be LGBTI)? Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (8) Whether the inmate has previously experienced sexual victimization? Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (9) The inmate's own perception of vulnerability? Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (10) Whether the inmate is detained solely for civil immigration purposes? Yes No

115.41 (e)

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

115.41 (f)

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

115.41 (g)

- Does the facility reassess an inmate's risk level when warranted due to a: Referral? Yes No
- Does the facility reassess an inmate's risk level when warranted due to a: Request? Yes No
- Does the facility reassess an inmate's risk level when warranted due to a: Incident of sexual abuse? Yes No

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

115.41 (h)

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

115.41 (i)

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

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

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

115.41 (a)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.E.1. (page 6), requires that, "Risk assessment of all offenders using an objective screening instrument for victimization or abusiveness will take place within 72 hours of intake into a facility."

The Montana Women's Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019, requires that, "Risk assessment of all offenders using an objective screening instrument for victimization or abusiveness will take place within 72 hours of intake into MWP...The assessment will be completed by medical staff during medical intake."

The Auditor was provided with a listing of the 188 offenders received between 06/01/2018 and 05/31/2019 documenting the completion of required risk assessments in accordance with policy and standard. While on site, the Auditor also reviewed the SharePoint tracking system in place.

During on-site interviews, twelve (12) of the applicable fourteen (14) offenders interviewed (those who had arrived within the last year), indicated they had been asked the assessment questions on arrival. One of the remaining two (2) offenders indicated that she did not remember. Completion of the indicated assessments was confirmed while the Team was on-site. Interviews with those who complete risk assessments also confirmed completion of the initial assessment on the day of arrival by medical staff as part of the overall intake process.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.41 (b)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.E.1. (page 6), requires that, "Risk assessment of all offenders using an objective screening instrument for victimization or abusiveness will take place within 72 hours of intake into a facility."

The Montana Women's Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019, section III.E.1. (page 6), requires that, "Risk assessment of all offenders using an objective screening instrument for victimization or abusiveness will take place within 72 hours of intake into MWP...The assessment will be completed by medical staff during medical intake."

The Auditor was informed that during the 12-month documentation period, one offender had not been given an initial assessment when she was returned from another secure facility, that when she was returned, she went back to her previous housing and bed assignment that had been held pending her return. It is noted that a follow-up / 30-day assessment was completed, and the offender completed orientation following her return. As a result, the facility initiated a practice of requiring a new intake assessment, new follow up assessment, and completion of orientation if the offender was not under MWP supervision while out of the facility. This requirement was added to the MWP Operational Procedure (section III.E.4., page 6 – 7), which requires, "Reassessments will be completed when an inmate returns to MWP 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). Reassessments will be conducted the same as the intake process. If the inmate's bed was held pending a leave to court, they can return to that bed with out immediately conducting a reassessment. If the inmate is returning to a different housing assignment, the assessment must be completed before going to a new housing assignment."

The Auditor received a listing of all 188 offenders who had been received by MWP between 06/01/2018 and 05/31/2019, selecting the sixth offender for each of the twelve months represented by the list. The Auditor received the initial (72-hour) risk assessment for each of these offenders, confirming completion as required.

The Auditor also did an analysis of the data included in the spreadsheet of offenders received, with the following results:

- Number of offenders received = 188
 - Number of offenders who remained at the facility for at least 72 hours = 188
 - Number of offenders who had a risk assessment completed within the required 72 hours = 187
- This gives the facility an overall initial risk assessment compliance rate of greater than 99%.

During on-site interviews, twelve (12) of the applicable fourteen (14) offenders interviewed (those who had arrived within the last year), indicated they had been asked the assessment questions on arrival.

One of the remaining two (2) offenders indicated that she did not remember. Completion of the required assessments was confirmed while the Team was on-site. Interviews with those who complete risk assessments also confirmed completion of the initial assessment on the day of arrival by medical staff as part of the overall intake process.

During the on-site review, a Team member observed medical staff complete an intake risk assessment for an incoming offender. Initial risk assessments are completed on a hard copy form which the offender is required to review. The offender also signs the form, acknowledging completion of the assessment and accuracy of information before the data is entered into OMIS. Offenders also confirm that the assessor met with her to complete the assessment and document whether or not the offender wants to meet with mental health (as applicable based on the responses to identified questions). This is considered to be a best practice based on the double-check of information included in the assessment as well as confirmation of a face-to-face meeting in order to complete the assessment. Additionally, the process is then very transparent, and nothing is retained from disclosure with the offender.

Based on the above, MWP is assessed as exceeding the requirements of this subsection.

115.41 (c)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.E.1. (page 6), requires that, "Risk assessment of all offenders using an objective screening instrument for victimization or abusiveness will take place within 72 hours of intake into a facility."

The Montana Women's Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019, section III.E.1. (page 6), requires that, "Risk assessment of all offenders using an objective screening instrument for victimization or abusiveness will take place within 72 hours of intake into MWP...The assessment will be completed by medical staff during medical intake."

The Auditor was provided with the PREA Risk Assessment as revised 12/17/2018, which is used across the agency to conduct all PREA risk assessments.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.41 (d)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.E.4. (page 6), requires that, "The screening instrument will consider, at a minimum, the following criteria for risk of sexual victimization: (a) whether the offender has a mental, physical, or developmental disability; (b) the age of the offender; (c) the physical build of the offender; (d) whether the offender has previously been incarcerated; (e) whether the offender's criminal history is exclusively nonviolent; (f) whether the offender has prior convictions for sex offenses against an adult or child; (g) whether the offender is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming; (h) whether the offender has previously experienced sexual victimization; and (i) the offender's own perception of vulnerability." This language is mirrored in the Montana Women's Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

The Auditor was provided with the PREA Risk Assessment tool, confirming inclusion of all standard-required elements. The Auditor was also provided with the PREA Risk Assessment Instructions, which detail all elements of the assessment, what information the assessor should be reviewing, what questions should be asked of the offender and how assessments are scored. This is a best practice for which the agency is commended.

Risk assessors interviewed while on-site were able to articulate the elements included in the risk assessment, confirming inclusion of standard-required elements. They all also confirmed practice in compliance with facility procedures, with medical staff completing the initial assessment during the intake process and Case Managers completing the 30-day review.

Based on the extensive process implemented to ensure consistent completion of assessments and the thorough instructional assistance provided to assessors, MWP is assessed as exceeding the requirements of this subsection.

115.41 (e)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.E.5. (page 6), requires that, "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 offender's risk for being sexually abusive. This language is mirrored in the Montana Women's Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

The Auditor was provided with the PREA Risk Assessment tool, confirming inclusion of all standard-required elements. The Auditor was also provided with the PREA Risk Assessment Instructions, which detail all elements of the assessment, what information the assessor should be reviewing, what questions should be asked of the offender and how assessments are scored. This is a best practice for which the agency is commended.

Risk assessors interviewed while on-site were able to articulate the elements included in the risk assessment, confirming inclusion of standard-required elements. They all also confirmed practice in compliance with facility procedures, with medical staff completing the initial assessment during the intake process and Case Managers completing the 30-day review.

Based on the extensive process implemented to ensure consistent completion of assessments and the thorough instructional assistance provided to assessors, MWP is assessed as exceeding the requirements of this subsection.

115.41 (f)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.E.2. (page 6), requires that, "Within 30 days of intake the facility will reassess the offender's risk of victimization or abusiveness, taking into consideration any additional relevant information received by the facility since the initial screening."

The Montana Women's Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019, section III.E.2. (page 6), requires that, "Within 30 days of intake MWP will reassess the offender's risk of victimization or abusiveness, taking into consideration any additional relevant information received by MWP since the initial screening. This assessment will be completed by the inmate's Case Manager."

The Auditor received a listing of all offenders who had been received by MWP between 06/01/2018 and 05/31/2019, selecting the sixth offender for each of the twelve months represented by the list. The Auditor received the follow-up (30-day) risk assessment for each of these offenders, confirming completion as required.

The Auditor also did an analysis of the data included in the spreadsheet of offenders received, with the following results:

- Number of offenders received = 188
- Number of offenders who remained at the facility for at least 30 days = 184
- Number of offenders who had a risk assessment completed within the required 30 days = 174

This gives the facility an overall initial risk assessment compliance rate 95%. It is noted that the ten (10) offenders noted above did have a follow-up risk assessment completed, but beyond the 30 days specified in standard and policy.

Ten (10) of the twelve (12) applicable offenders interviewed indicated completion of a follow-up risk assessment, most indicating that it occurred within 30-days of arrival. All assessors interviewed confirmed that follow-up assessments are completed within 30-days of arrival, noting that the PCM usually sends an email reminder of those assessments that are coming due.

It is noted that initial risk assessments are completed on a hard copy form which the offender is required to review. The offender also signs the form, acknowledging completion of the assessment and accuracy of information before the data is entered into OMIS. Offenders also confirm that the assessor met with her to complete the assessment. This is considered to be a best practice based on the double-check of information included in the assessment as well as confirmation of a face-to-face meeting in order to complete the assessment. Additionally, the process is then very transparent, and nothing is retained from disclosure with the offender.

Based on the above, MWP is assessed as exceeding the requirements of this subsection.

115.41 (g)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.E.3. (page 6), requires that, "The facility will conduct additional screening assessments when warranted based on any new information, referral, request, or incident of sexual abuse." This language is mirrored in the Montana Women's Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

The Auditor identified two (2) cases in which an abuse allegation had been substantiated and requested documentation of related for-cause risk assessments. The PCM related that the offenders on these cases released. In one case, the alleged victim returned to custody, but denied being a victim. She was assessed as being a potential victim as a result.

Assessors interviewed were aware of standard requirements, indicating they would complete a "for-cause" assessment whenever indicated by the PCM.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.41 (h)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.E.6. (page 6), requires that, "Offenders will not be disciplined for refusing to answer, or for not disclosing complete information in response to, questions asked during screening or reassessment." This language is mirrored in the Montana Women's Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

All assessors interviewed confirmed the prohibition against disciplining an offender for refusing to answer or for providing incomplete information regarding assessment questions.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.41 (i)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.E.8. (page 7), requires that, "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 offenders at high risk of being sexually victimized from those at high risk of being sexually abusive."

Per a memo from the PREA Coordinator, "MDOC uses a SharePoint database to track and house PREA risk assessment information. This database can be demonstrated to the audit team during the onsite audit. Access to the SharePoint database is granted by the PREA coordinator and/or PREA compliance manager. Only those staff who complete assessments, conduct 14-day follow up, or need the information for housing, program, education, or work assignments are given access." The Auditor was able to observe the system while on site, confirming restricted access via the authorized access portion of the site.

Interviews with the PCM, PREA Coordinator, and facility risk assessors confirmed restriction of access to the system to only the PCM, health services staff and Case Managers, namely those responsible for tracking and completing assessments.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017
- Montana Women's Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019
- Listing of all offenders received by MWP between 06/01/2018 and 05/31/2019
- 72-hour and 30-day risk assessments for selected offenders
- 07/05/2019 memo from the PCM regarding revision to assessment procedures
- 07/01/2019 memo from the PREA Coordinator regarding the use of SharePoint
- PREA Risk Assessment Instructions

Interviews conducted:

- PREA Compliance Manager
- PREA Coordinator
- Random Sample of Offenders
- Staff Responsible for Risk Screening

Standard 115.42: Use of screening information

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

115.42 (a)

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

115.42 (b)

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

115.42 (c)

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

115.42 (d)

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

115.42 (e)

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

115.42 (f)

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

115.42 (g)

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

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

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

115.42 (a)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.B.9. (page 3 – 4), requires that, "All facilities will identify, assess, and manage offenders 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*." This same policy, section IV.E.8. (page 7) requires that, "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 offenders at high risk of being sexually victimized from those at high risk of being sexually abusive." This language is mirrored in the Montana Women's Prison Operational Procedure 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

Agency policy DOC 4.2.2, *Special Needs Offenders*, 02/22/2012, section IV.B. (page 2), requires that, "The facility/program administrator, or designee, will establish procedures to: (a.) require that offenders are screened within 24 hours of arrival at the facility to identify potential vulnerabilities or tendencies of acting out with sexually aggressive behavior; (b.) ensure that offenders identified as high risk with a history of sexually assaultive behavior are assessed by a mental health or other qualified professional; (c.) require that offenders with a history of sexually assaultive behavior are monitored and counseled by a qualified professional; (d.) ensure that offenders identified as at risk for sexual victimization are assessed by a mental health or other qualified professional; and (e.) require that offenders at risk for sexual victimization are monitored and counseled by a qualified professional."

The Auditor was also informed that any known abuser is referred to the sex offender treatment provider who reviews all available records and meets with the offender to determine if such treatment is indicated. Any offender who is identified as a known victim is also referred to a mental health counselor to determine if additional / continued treatment is indicated, the provision of which is made based on the professional judgement of the provider. It is noted that there have been no offenders identified as known perpetrators during the facility's audit documentation period. All offenders are also evaluated by mental health and medical providers during the intake process to identify needs for continuing care.

Per information received from the PCM, Shift Lieutenants are responsible for making all housing decisions. The Auditor was provided with the instructional information that is provided to guide these decisions:

Do not cell together:

Known Victim & Known Predator

Known Victim & Potential Predator

Known Predator & Potential Victim

An inmate that is designated as both Potential Predator and Potential Victim with an inmate designated as Known Victim or Known Predator.

Housing a dual designated inmate with a KV or KP must be approved by Admin. Review...

You can cell together:

Potential Victims & Potential Predators

Non-Designated & Any Designation

An inmate that is designated both Potential Victim and Potential Predator with Potential Victims, Potential Predators and non-designated inmates.

The Auditor was informed that information regarding risk identifiers is found in the Offender Management Information System (OMIS). Per the PCM, housing for the known predator currently incarcerated at the facility is monitored by the Administrative Review Committee along with any programming changes that may arise. Confirmation of this process was obtained during on-site interviews.

Per the PCM, the Inmate Services Lieutenant is responsible for all program and job assignment decisions. Information regarding risk identifiers is maintained in OMIS, which is reviewed by the applicable Lieutenant prior to making a recommendation for such assignments. The Auditor was provided with a document providing instruction on how to locate this information. Assignments are discussed during the Administrative Review Committee process, in which PREA-related information is provided by the PCM. Knowledge of this process was confirmed in interviews while on-site.

All of these procedures and reviews were confirmed in interviews with the PCM and Risk Assessors while on-site.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.42 (b)

Agency policy DOC 4.2.2, *Special Needs Offenders*, 02/22/2012, section IV.B. (page 2), requires that, "The facility/program administrator, or designee, will establish procedures to: (a.) require that offenders are screened within 24 hours of arrival at the facility to identify potential vulnerabilities or tendencies of acting out with sexually aggressive behavior; (b.) ensure that offenders identified as high risk with a history of sexually assaultive behavior are assessed by a mental health or other qualified professional; (c.) require that offenders with a history of sexually assaultive behavior are monitored and counseled by a qualified professional; (d.) ensure that offenders identified as at risk for sexual victimization are assessed by a mental health or other qualified professional; and (e.) require that offenders at risk for sexual victimization are monitored and counseled by a qualified professional."

Shift Lieutenants and the Inmate Services Lieutenant are responsible for all housing, programming, and job decisions. These are all made on an individual basis following instructional information developed by the PREA Coordinator (see 115.42 a).

Decisions made on a case-by-case basis, founded on the risk and needs identified for each offender, were confirmed in interviews conducted while on-site.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.42 (c)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.E.9. and .10. (page 7), requires that,

In deciding whether to assign a transgender or intersex offender to a facility, and in making other housing and programming assignments, the Department will consider on a case-by-case basis the placement's effect on the offender's safety, whether the placement would present management or security problems, and whether such placement would likely endanger the safety of other offenders. A review committee consisting of a qualified health care professional, qualified mental health 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 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.

This language is mirrored in the Montana Women's Prison Operational Procedure 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

The Auditor was provided with a memo from the PREA Coordinator indicating that MDOC established the Transgender and Intersex Placement Review Committee in October 2017. The Auditor was also provided with a 10/05/2017 memo from the Director to designated facility Wardens, the PREA Coordinator, Medical and Mental Health Bureau Chiefs, the Chief of Legal Services, and the Probation and Parole Administrator along with email documentation of distribution. This memo directed the establishment of this review committee noting,

The review committee will include a qualified health care professional, a qualified mental health care professional, the PREA Coordinator, chief legal counsel or designee, and the Montana State Prison and Montana Women's Prison wardens or designees...The responsibilities of this committee include:

- *Meeting in a timely manner following a transgender or intersex inmate's commitment to a Department secure facility.*
- *Conducting an individualized assessment of each transgender or intersex inmate based upon each committee member's specific area of expertise, knowledge, and control.*
- *Determining appropriate transgender and intersex inmate placement based on a review of all relevant information.*
- *Ensuring all documentation, information, and recommendations of the review committee are confidential and maintained in a secure location.*
- *Providing a recommendation for placement to the Director for final approval.*

When a transgender or intersex inmate is committed to a Department secure facility, the PREA Coordinator will be notified and convene the committee.

This directive was updated 11/23/2018 and 07/02/2019 to reflect staffing changes impacting the review committee participants.

During the audit documentation period, MWP housed only one (1) transgender / intersex / gender non-conforming offender. The Auditor was provided with the initial review and the six-month status / wellness review, confirming compliance with standard and policy requirements, including a review of the offender's own sense of safety and related concerns. Completion of reviews in compliance with the standard and agency policy were also confirmed in an interview with the PCM. The transgender offender interviewed also confirmed that staff asked if he felt safe while at the facility. He also confirmed that he had never been housed in an area for only transgender or intersex offenders, nor had he been searched for the sole purpose of determining genital status.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.42 (d)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.E.11. (page 7), requires that, "Placement and programming assignments for each transgender or intersex offender will be reassessed at least twice each year to review any threats to safety experienced by the offender." This language is mirrored in the Montana Women's Prison Operational Procedure 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

The Auditor was provided with the of Transgender or Intersex Inmate 6-month Wellness Check form completed for the identified offender, confirming completion of the require review.

During the audit documentation period, MWP housed only one (1) transgender / intersex / gender non-conforming offender. The Auditor was provided with the initial review and the six-month status / wellness review, confirming compliance with standard and policy requirements. The form used to conduct the wellness review documents:

- *Do you feel safe to shower?*
- *Do you feel safe in the unit?*
- *Do you know how to report issues at this facility?*
- *Do you have any other concerns related to your safety? If yes, please explain.*
- *Reports of harassment during assessment period.*
- *Reports of housing issues during assessment period.*
- *Specific concerns or recommendations for placement / programming assignments.*

Compliance with standard and agency requirements requiring these reviews were confirmed in an interview with the PCM.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.42 (e)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.E.11. (page 7) requires that, "A transgender or intersex offender's own views with respect to his or her own safety will be given consideration." This language is mirrored in the Montana Women's Prison Operational Procedure 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

During the audit documentation period, MWP housed only one (1) transgender / intersex / gender non-conforming offender. The Auditor was provided with an example of Transgender or Intersex Inmate 6-month Wellness Check forms completed for the identified offender. This form includes the following questions asked of offenders:

- *Do you feel safe to shower?*
- *Do you feel safe in the unit?*
- *Do you know how to report issues at this facility?*
- *Do you have any other concerns related to your safety? If yes, please explain.*

Inclusion of offender perceptions of individual safety was confirmed in an interview with the PCM. The transgender offender interviewed also confirmed that staff asked if he felt safe while at the facility.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.42 (f)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.B.10. (page 4) requires that, "Transgender and intersex offenders will be given the opportunity to shower

separately from other offenders either through physical separation by separate shower stalls, or by time-phasing or scheduling of showers.” This language is mirrored in the Montana Women’s Prison Operational Procedure 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

The availability of individual showers along with the opportunity to discuss any concerns with Case Managers and/or facility administrators was confirmed in an interview with the PCM. Additionally, the transgender offender interviewed indicated he had the ability to shower privately and had not experienced any related difficulties while at MWP. During the tour, the Audit Team was able to observe the availability of individual shower stalls on each unit and in each dormitory room, each with sufficient shower curtains to allow for the privacy of the user.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.42 (g)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.B.11. (page 4), requires that, “The department will not place lesbian, gay, bisexual, or transgender offenders in dedicated facilities, units, or wings solely on the basis of such identification or status.” This language is mirrored in the Montana Women’s Prison Operational Procedure 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

The housing of LGBTI offenders throughout the facility based on classification rather than identity was confirmed via the on-site tour; review of housing assignments for all offenders identified as lesbian, bisexual, and transgender; and interviews with lesbian and transgender offenders.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017
- Montana Women’s Prison Operational Procedure 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019
- Agency policy DOC 4.2.2, *Special Needs Offenders*, 02/22/2012
- 10/06/2017 email and 10/05/2017 memo from the Director establishing the Transgender and Intersex Inmate Placement Review Committee with 11/23/2018 and 0/02/2019 updates
- Examples of Transgender or Intersex Inmate 6-month Wellness Check forms
- Instructional documents regarding housing assignments and accessing PREA designation information in OMIS

Interviews conducted:

- Gay / Lesbian / Bisexual Offenders
- PREA Compliance Manager
- PREA Coordinator
- Staff Responsible for Risk Screening
- Transgender / Intersex Offenders

Standard 115.43: Protective Custody

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

115.43 (a)

- Does the facility always refrain from placing inmates at high risk for sexual victimization in involuntary segregated housing unless an assessment of all available alternatives has been made, and a determination has been made that there is no available alternative means of separation from likely abusers? Yes No
- If a facility cannot conduct such an assessment immediately, does the facility hold the inmate in involuntary segregated housing for less than 24 hours while completing the assessment? Yes No

115.43 (b)

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

115.43 (c)

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

115.43 (d)

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

115.43 (e)

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

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

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

115.43 (a)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.B.12. (page 4), requires that, "Victims of sexual abuse and offenders at high risk for sexual victimization will not be placed in segregated 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 a facility cannot conduct such an assessment immediately, the facility may hold the offender in segregated housing for up to 24 hours while completing the assessment." This language is mirrored in the Montana Women's Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

Agency policy DOC 3.5.1, *Locked Housing Unit Operations*, 09/09/2016, section IV.B. (page 2), requires that, "Adult facility operational procedures will include the following requirements: (a.) there will be a documented process to admit an offender to a locked housing unit. Offenders may only be admitted when there is documentation that this status is warranted and no reasonable alternatives were available; (b.)

the classification committee or other authorized staff group will conduct a status review of offenders in administrative segregation and special management units every 30 days; (c.) there will be a documented review process to release an offender from administrative segregation or special management status; (d.) a hearing by the disciplinary committee or hearings officer must be completed before placing an offender in disciplinary detention for a rule violation.”

During the most recent DOJ audit (final report dated 02/03/2018), the Auditor learned that an offender had been housed in segregated housing following a report that she was afraid for her safety as it related to PREA. As a result, the Montana Women’s Prison Operational Procedure MWP 4.2.1, *Inmate Classification System*, 01/04/2018, section III.F.5. (page 8) was revised to require, “The respective locked housing Case Manager must conduct locked housing status review plan of all inmates currently classified to maximum custody and administrative housing status at least monthly using a Locked Housing Status Review Plan Form. This includes the following: (a) inmates currently classified to maximum custody and administrative housing status will be considered for general population placement during their monthly review on a case by case basis; and (b) if the Classification Staff determines general population or other locked housing placement is appropriate, they will conduct a reclassification hearing using the Custody Reclassification Instrument.” Additionally, segregation reviews are required to include PREA staff for review of any related issued to ensure alleged victims and/or at risk offenders are not placed in segregated housing for any longer than necessary, even if the placement is requested by the offender.

During the auditor documentation period, there were no offenders placed in segregated housing due to risk of sexual victimization. As a result, there is no secondary documentation available for review. This along with procedures that restrict such placements were confirmed in an interview with the Warden.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.43 (b)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.B.13. (page 4) requires that, “Offenders 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.” This language is mirrored in the Montana Women’s Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

Agency policy DOC 3.5.1, *Locked Housing Unit Operations*, 09/09/2016, section IV.B.1.e. (page 2), requires that, “...offenders held in disciplinary detention for periods exceeding 60 days will be provided the same program services and privileges as offenders in administrative segregation and special management units.”

The Montana Women’s Prison Operational Procedure MWP 3.5.1., *Locked Housing Unit Operations*, 06/02/2014, section III.H. (page 5), requires that, “The following programs and activities must be available to inmates who are in a non-disciplinary status in locked housing units: (1) Recreation and exercise will be provided in accordance with established MWP OP 3.5.1b – “Secured Housing Unit Recreation.” (2) Showers must be offered per the MWP OP 3.5.1L – “Secured Housing Unit Showers.” (3) Crisis counseling and other social services may be provided on an in-cell basis. Inmates requiring private counseling may be removed in restraints to a separate room where they must remain under the observation of staff and in restraints. (4) In-cell education programs. (5) Reading materials. (6) Law library materials on a checkout basis. (7) Religious materials and counseling approved by Deputy Warden of Operations. (8) Social and legal correspondence according to MWP OP 3.3.6 Offender Mail; to stay in

line with DOC Policy 3.3.6 Offender mail. (9) Canteen purchases may be allowed according MWP OP 1.2.10b – Canteen for Secured Housing. (10) Medical services.”

During the auditor documentation period, there were no offenders placed in segregated housing due to risk of sexual victimization. As a result, there is no secondary documentation available for review. While on site, the Auditor was informed that any Correctional Officer assigned to locked housing could be considered staff who supervise offender in segregation. The Auditor confirmed in an interview that to the individual’s best recollection, the facility has never placed an at-risk offender in segregated housing. The individual noted that any offender in such housing still retains a significant amount of their property, unless it is restricted as the result of a sanction imposed by the Disciplinary Hearing Officer.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.43 (c)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.B.12. (page 4), requires that, “Victims of sexual abuse and offenders at high risk for sexual victimization will not be placed in segregated 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.” This language is mirrored in the Montana Women’s Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

During the audit documentation period, there were no offenders placed in segregated housing due to risk of sexual victimization. As a result, there is no secondary documentation available for review. During an interview, the Warden confirmed that the facility does not place at-risk offenders in segregated housing.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.43 (d)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.B.12. (page 4) requires that, “Victims of sexual abuse and offenders at high risk for sexual victimization will not be placed in segregated 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...The facility will clearly document the basis for the facility’s concern for the offender’s safety and the reason no alternative means of separation could be arranged.” This language is mirrored in the Montana Women’s Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

Agency policy DOC 3.5.1, *Locked Housing Unit Operations*, 09/09/2016, section IV.B.1.a. (page 2), requires that, “...there will be a documented process to admit an offender to a locked housing unit. Offenders may only be admitted when there is documentation that this status is warranted and no reasonable alternatives were available.”

During the auditor documentation period, there were no offenders placed in segregated housing due to risk of sexual victimization. As a result, there is no secondary documentation available for review.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.43 (e)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.B.12. (page 4) requires that, "Victims of sexual abuse and offenders at high risk for sexual victimization will not be placed in segregated 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...The facility will review each offender placed in segregated housing for protective purposes every 30 days." This language is mirrored in the Montana Women's Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

Agency policy DOC 3.5.1, *Locked Housing Unit Operations*, 09/09/2016, section IV.B.1.b. (page 2), requires that, "...the classification committee or other authorized staff group will conduct a status review of offenders in administrative segregation and special management units every 30 days."

During the auditor documentation period, there were no offenders placed in segregated housing due to risk of sexual victimization. As a result, there is no secondary documentation available for review. During an interview, the Warden confirmed that the facility does not place at-risk offenders in segregated housing.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017
- Montana Women's Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019
- Montana Women's Prison Operational Procedure MWP 4.2.1, *Inmate Classification System*, 01/04/2018
- Agency policy DOC 3.5.1, *Locked Housing Unit Operations*, 09/09/2016

Interviews conducted:

- Warden
- Staff who Supervise Offenders in Segregated Housing

REPORTING

Standard 115.51: Inmate reporting

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

115.51 (a)

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

115.51 (b)

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

115.51 (c)

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

115.51 (d)

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

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

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

115.51 (a)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.F.1. and 3. (page 7 - 8) require that, "Facilities will provide multiple internal ways for offenders to privately report sexual abuse and sexual harassment, retaliation by other offenders or employees for reporting sexual abuse and sexual harassment, and employee neglect or violation of responsibilities that may have contributed to such incidents. Offenders 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) utilize the "locked box" formal grievance procedure in accordance with *DOC Policy 3.3.3 Offender Grievance Program*; (c) use the Department-approved free confidential telephone hotline operated by an external agency; or use of the inmate phone system following the instructions on the phone to leave a message for a Department employee." This is mirrored in the Montana Women's Prison Operational Procedure MWP 1/1/17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019. The instructions available on the offender telephone are as follows:

To make an internal report of sexual abuse or harassment after this message, press 4, enter your pin, then press 2, 3. To make an external report of sexual abuse or harassment, after this message, press #99.

The Auditor was provided with the poster that is maintained in offender-accessible areas of the facility that poster reads:

PRISON RAPE ELIMINATION ACT (PREA)

YOU HAVE THE RIGHT TO BE FREE FROM SEXUAL
ABUSE AND SEXUAL HARASSMENT.

ANY SEXUAL CONTACT BETWEEN INMATES IS AGAINST
THE RULES AND WILL RESULT IN DISCIPLINE AND
LEGAL PENALTIES.

ANY SEXUAL CONTACT BETWEEN AN INMATE AND A

STAFF MEMBER, VOLUNTEER, OR CONTRACTOR IS
AGAINST THE LAW.

YOU HAVE THE RIGHT TO BE FREE FROM RETALIATION
ANY SEXUAL ABUSE OR SEXUAL HARASSMENT YOU
REPORT WILL BE SHARED ONLY WITH THE PEOPLE WHO
NEED TO KNOW.

IF YOU BELIEVE YOU ARE BEING SEXUALLY ABUSED OR
SEXUALLY HARASSED:

- REPORT IT TO STAFF
- FILE A GRIEVANCE
- FOLLOW THE INSTRUCTIONS ON INMATE PHONES TO FILE A REPORT
- CALL THE PREA HOTLINE 800-483-7858

During the on-site review, the Team observed posters throughout the facility, including in publicly accessible areas.

Offenders are also provided with a brochure on intake entitled, "End the Silence – Zero Tolerance for Sexual Abuse and Sexual Harassment: Prison Rape Elimination Act (PREA)". The brochure includes detailed information about offender reporting mechanisms:

Montana Women's Prison offers multiple ways to report sexual abuse and sexual harassment:

- *Telephone: (406) 247-5100.*
- *Report to any staff, volunteer, contractor, or medical or mental health staff.*
- *Submit a grievance of OSR (KITE)*
- *Report to the PREA Coordinator or PREA Compliance Manager*
- *Tell a family member, friend, legal counsel, or anyone outside the facility. They can report on your behalf by calling (406) 247-5100.*
- *You can also submit a report on someone's behalf, or someone at the facility can report for you by picking up one of the pod phones and following the pre-recorded directions.*

While on site, the Team conducted a test of the ability to report allegations via offender telephones. An offender personal identification number (PIN) is required to place such calls. The internal PREA hotline generates a recorded message that is immediately sent to the Warden and PCM via email. The hotline test call made from an offender phone came over the Warden's phone via email within minutes of being placed. She also receives the actual recording so she is able to listen to what the offender says. The Auditor was also provided email confirmation from the PCM regarding both of the test phone calls placed.

The Grievance Coordinator indicated that grievances forms are available for offenders on all housing units. This was confirmed by the Team while on site. While on site, the Auditor placed a grievance in one of the boxes in the dining hall as a test of the reporting mechanism. The Auditor was provided with an email from the PCM, confirming that the grievance was picked up on the same day it was dropped and provided to the PCM as the Grievance Coordinator would do with any grievance including a PREA allegation.

Additionally, while on site, the Auditor placed a test request form (kite) in the mailbox in the dining hall designated for the Warden. The Auditor received confirmation of the receipt of this kite by the Warden and the forwarding of the kite to the PCM on the same day the kite was dropped, as would happen with any offender-submitted kite. .

The Auditor was provided with a listing of all investigations initiated based on allegations reported during the facility's audit documentation period, confirming the use of multiple available reporting mechanisms.

While on site, the Team confirmed with the Lieutenant responsible for supervision of the mailroom that all mail noted as PREA or addressed to any PREA-related entity or organization is handled as legal mail, with contents visually reviewed in front of the offender before it is sealed, marked legal mail, and then expedited through the mailroom handling process.

During on-site interviews, staff were able to easily articulate multiple mechanisms in which offenders can report PREA-related information (e.g., allegations, retaliation, etc.). Additionally, offenders also expressed familiarity with many of the reporting avenues available.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.51 (b)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.F.2. (page 7) requires that, "Facilities must provide at least one way for offenders 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 offenders of any sexual abuse or harassment to facility or department officials, allowing the offender to remain anonymous upon request." This is mirrored in the Montana Women's Prison Operational Procedure MWP 1/1/17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

MDOC has established an external reporting entity agreement with the YWCA in Missoula. The Auditor was provided with the applicable MOU in effect 07/23/2018 until terminated and an example of a report received by the YWCA and forwarded to the CORPREAreporting@mt.gov email box. The MOU states in part,

For the purposes of providing a method of reporting allegations that are outside of MDOC... YWCA will:

- *Provide 24-hour hotline, crisis intervention, and referral and support services to victims of sexual abuse in confinement facilities within the designated service area.*
- *Notify MDOC's PREA Coordinator via email immediately of any case reported on the hotline.*
- *Receive reports via letter from offenders who are not allowed phone access due to a disciplinary status and forward any letters to the MDOC PREA Coordinator.*

While on-site, the Team conducted a test of the ability to contact the YWCA Missoula in their role as the external reporting entity. The call was placed on an offender phone by dialing #99 per the instructions provided by the telephone. An offender's personal identification number (PIN) is not required to place these calls, confirmed by the Team, and as such, offenders can remain anonymous when reporting allegations or concerns. The call connected with the YWCA and an email confirming the forwarding of the call information to the PCM was also received.

The Auditor was provided with a listing of all investigations initiated based on allegations reported during the facility's audit documentation period, confirming the use of multiple available reporting mechanisms.

During interviews conducted, several staff and a majority of offenders struggled with identification of the external reporting entity required by the standard. However, once the process was explained, the offenders then confirmed knowledge of the reporting option, just indicated they weren't sure what it was for. In order to provide clarification regarding reporting mechanisms, the facility enhanced the related

information included in offender orientation. On 09/16/2019, the Auditor was provided with a revised PowerPoint presentation for offender orientation, incorporating additional reporting-related information.

It is noted that MDOC does not detain offenders solely for civil immigration purposes.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.51 (c)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.F.4. (page 8) requires that, “Employees and service providers will accept reports verbally, in writing, anonymously, and from third parties and will promptly document any verbal reports.” This is mirrored in the Montana Women’s Prison Operational Procedure MWP 1/1/17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

The Auditor was provided with a listing of all investigations initiated based on allegations reported during the facility’s audit documentation period, confirming the use of multiple available reporting mechanisms.

The Auditor was provided with an example of Montana Department of Corrections Statement of Incident detailing an incident reported per policy from an allegation verbally made by an offender to a staff member.

All staff interviewed indicated that they would accept allegation information, regardless of the manner in which it was reported. They also indicated that this information would be reported to the highest ranking individual on shift immediately upon receipt, followed by a written report as soon as possible, based on the circumstances, but that this would always be completed prior to the end of the current shift. Offenders indicated they had the ability to report allegations verbally, in writing, or via a third party. Many indicated they were comfortable speaking with any staff member and could also contact their family members to relay information if needed.

It is recommended that a clarification to policy be written on the next policy revision. In one section of the policy, the reporting timeframe is “promptly” (section IV.f.4.) but is indicated as “immediately” in another section (section IV.H.1.). Staff clearly understand the immediacy of reporting requirements, so this is not considered a compliance issue, but rather one of clarification.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.51 (d)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.H.3. (page 8) indicates that, “Employees and service providers may privately report sexual abuse or sexual harassment through their chain of command or by notifying the department PREA coordinator.” This is mirrored in the Montana Women’s Prison Operational Procedure MWP 1/1/17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

Montana Department of Corrections Staff PREA Training, Prison Rape Elimination Act (PREA) also informs all participants:

How can staff privately report?

- *Notify a supervisor or someone in your chain of command*
- *Send an email to CORPREAReporting@mt.gov*
- *Call the PREA Coordinator (444-6583)*
- *Report to a Department Investigator*

All staff interviewed expressed the ability to report allegations privately, generally by moving up the chain of command, reporting to the Warden, the PCM, the PREA Coordinator, or to HQ criminal investigators.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017
- Montana Women's Prison Operational Procedure MWP 1/1/17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019. Montana Department of Corrections Staff PREA Training, Prison Rape Elimination Act (PREA) training curriculum
- Poster of reporting information available in offender accessible areas of the facility
- MOU with the YWCA Missoula in effect 07/23/2018 until terminated
- Example PREA call form from the YWCA Missoula
- Brochure End the Silence – Zero Tolerance for Sexual Abuse and Sexual Harassment: Prison Rape Elimination Act (PREA)
- Example of Montana Department of Corrections Statement of Incident
- Investigations tracking log from PCM
- Email confirmation of hotline tests, grievance test, and kite test
- 09/16/2019 revisions to offender orientation PowerPoint materials

Interviews conducted:

- Grievance Coordinator
- PREA Compliance Manager
- Random Sample of Offenders
- Random Sample of Staff
- Representative from Community-Based Advocacy Organization

Standard 115.52: Exhaustion of administrative remedies

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

115.52 (a)

- Is the agency exempt from this standard? NOTE: The agency is exempt ONLY if it does not have administrative procedures to address inmate grievances regarding sexual abuse. This does not mean the agency is exempt simply because an inmate does not have to or is not ordinarily expected to submit a grievance to report sexual abuse. This means that as a matter of explicit policy, the agency does not have an administrative remedies process to address sexual abuse.
 Yes No NA

115.52 (b)

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

115.52 (c)

- Does the agency ensure that: An inmate who alleges sexual abuse may submit a grievance without submitting it to a staff member who is the subject of the complaint? (N/A if agency is exempt from this standard.) Yes No NA
- Does the agency ensure that: Such grievance is not referred to a staff member who is the subject of the complaint? (N/A if agency is exempt from this standard.) Yes No NA

115.52 (d)

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

inmate consider the absence of a response to be a denial at that level? (N/A if agency is exempt from this standard.) Yes No NA

115.52 (e)

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

115.52 (f)

- Has the agency established procedures for the filing of an emergency grievance alleging that an inmate is subject to a substantial risk of imminent sexual abuse? (N/A if agency is exempt from this standard.) Yes No NA
- After receiving an emergency grievance alleging an inmate is subject to a substantial risk of imminent sexual abuse, does the agency immediately forward the grievance (or any portion thereof that alleges the substantial risk of imminent sexual abuse) to a level of review at which immediate corrective action may be taken? (N/A if agency is exempt from this standard.)
 Yes No NA
- After receiving an emergency grievance described above, does the agency provide an initial response within 48 hours? (N/A if agency is exempt from this standard.) Yes No NA
- After receiving an emergency grievance described above, does the agency issue a final agency decision within 5 calendar days? (N/A if agency is exempt from this standard.)
 Yes No NA
- Does the initial response and final agency decision document the agency's determination whether the inmate is in substantial risk of imminent sexual abuse? (N/A if agency is exempt from this standard.) Yes No NA
- Does the initial response document the agency's action(s) taken in response to the emergency grievance? (N/A if agency is exempt from this standard.) Yes No NA
- Does the agency's final decision document the agency's action(s) taken in response to the emergency grievance? (N/A if agency is exempt from this standard.) Yes No NA

115.52 (g)

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

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

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

115.52 (a)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.F.3.b. (page 8) specifies that, "Offenders who are victims of or have knowledge of sexual abuse or sexual harassment should immediately report the incident by one of the following methods...(b) utilize the "locked box" formal grievance procedure in accordance with *DOC Policy 3.3.3 Offender Grievance Program*."

Agency policy DOC 3.3.3, *Offender Grievance Program*, 06/28/2016, details the agency's grievance program, to include the submission of emergency grievances and grievances alleging sexual abuse.

Based on the existence of a formal grievance process, MWP is assessed as non-exempt from the requirements of this subsection.

115.52 (b)

Agency policy DOC 3.3.3, *Offender Grievance Program*, 08/28/2016, section IV.D.1. and 2. (page 3), requires that, "Offenders alleging sexual abuse must not be required to use an informal grievance system nor must they be required to resolve such a grievance with staff or submit the grievance to the staff member who is the subject of the complaint and the grievance will not be referred to the staff member who is the subject of the complaint. There will be no time limit placed on the filing of a grievance alleging sexual abuse. Applicable time limits may be applied to any portion of a grievance that does not allege an incident of sexual abuse." This language is mirrored in the Montana Women's Prison Operational Procedure MWP 3.3.3, *Offender Grievance Program*, 10/10/2017.

The Montana Women's Prison Operational Procedure MWP 3.3.3, *Offender Grievance Program*, 10/10/2017, section III.M.2. (page 8), also requires that, "Inmates may report staff on inmate and inmate

on inmate sexual misconduct using the emergency grievance process in accordance with *DOC Policies 1.3.12, Staff Association and Conduct with Offenders*, and *1.1.17 Prison Rape Elimination Act of 2003 (PREA)*. There is no time limit on filing a grievance concerning sexual misconduct.”

During the 12-month documentation period, a total of eight (8) PREA-related grievances were filed. The Auditor was provided with examples of these grievances along with a PREA grievance tracking log, confirming compliance with standard requirements.

The Auditor was provided with the MT Women’s Prison Inmate Handbook (revise 2019) which informs offenders that they are able to report allegations by using the lock box formal grievance procedure in accordance with MWP Procedure 3.3.3, *Offender Grievance Program*.

During an interview while on site, the Grievance Coordinator reported that grievance boxes are maintained on C and F Units (locked down units) and in the dining hall for all general population offenders. Grievances are retrieved each business day by the Grievance Coordinator, who is the only staff member with a key to these boxes. Offenders are not required to attempt to resolve any issue or complaint with the staff member involved. If the grievance includes a PREA allegation, it is pulled from the grievance system and placed in the PREA investigation system. The offender receives this information in the grievance response. The Grievance Coordinator also confirmed that there are no time limits associated with PREA allegations reported in grievances.

While on site, the Auditor placed a grievance in one of the boxes in the dining hall as a test of the reporting mechanism. The Auditor was provided with an email from the PCM, confirming that the grievance was picked up on the same day it was dropped and provided to the PCM as the Grievance Coordinator would do with any grievance including a PREA allegation.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.52 (c)

Agency policy DOC 3.3.3, *Offender Grievance Program*, 08/28/2016, section IV.D.1. (page 3), requires that, “Offenders alleging sexual abuse must not be required to use an informal grievance system nor must they be required to resolve such a grievance with staff or submit the grievance to the staff member who is the subject of the complaint and the grievance will not be referred to the staff member who is the subject of the complaint.” This language is mirrored in the Montana Women’s Prison Operational Procedure MWP 3.3.3, *Offender Grievance Program*, 10/10/2017.

During the 12-month documentation period, a total of eight (8) PREA-related grievances were filed. The Auditor was provided with examples of these grievances along with a PREA grievance tracking log, confirming compliance with standard requirements.

The Auditor was provided with the MT Women’s Prison Inmate Handbook (revise 2019) which informs offenders that they are able to report allegations by using the lock box formal grievance procedure in accordance with MWP Procedure 3.3.3, *Offender Grievance Program*.

The Grievance Coordinator confirmed that offenders are required to place all grievances in the identified locked boxes, that he is the only staff member with a key to these boxes, and that he responds to all grievances received.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.52 (d)

Agency policy DOC 3.3.3, *Offender Grievance Program*, 08/28/2016, section IV.D.3. through 5. (page 4) requires that, "A final decision on the merits of any portion of a grievance alleging sexual abuse must be issued within 90 days of the initial filing of the grievance. This does not include time consumed by the offender in preparing any appeals. If the 90-day time period for response is insufficient to make an appropriate decision an extension of up to 70 days may be allowed to respond. The offender must be notified in writing of any such extension and provided a date by which a decision will be made. At any level of the process, including the final level, if the offender does not receive a response within the time allotted for reply, including any properly noticed extension, the offender may consider the absence of a response to be a denial at that level." This language is mirrored in the Montana Women's Prison Operational Procedure MWP 3.3.3, *Offender Grievance Program*, 10/10/2017.

During the 12-month documentation period, a total of eight (8) PREA-related grievances were filed. The Auditor was provided with examples of these grievances along with a PREA grievance tracking log, confirming that there were no grievances in which an extension was implemented because a decision was not made within the initial 90-day period.

During an interview, the Grievance Coordinator reported that if an allegation was received via a grievance, the grievance response provided to the offender is that a PREA investigation is started and that the PCM will let the offender know the outcome when complete. He reported that he has 20 days to respond to informal grievances, but that anything including any PREA information is provided to the PCM immediately. It is noted the offender who had reported an allegation during the facility's audit documentation period and was still residing at the facility did not use a grievance to report the allegation and therefore the interview conducted with this offender was not applicable to this subsection.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.52 (e)

Agency policy DOC 3.3.3, *Offender Grievance Program*, 08/28/2016, section IV.D.8. (page 4) requires that, "Third parties are permitted to assist offenders in filing requests for administrative remedies relating to allegations of sexual abuse, and are permitted to file such requests on behalf of an offender, with the following exceptions: (a) adult offenders must give permission for the third party to file requests and must personally pursue any subsequent steps in the grievance process; (b) if the alleged victim is a juvenile a parent or legal guardian is allowed to file a grievance, including appeals, on behalf of the juvenile without the agreement of the juvenile; (c) if the alleged victim is a juvenile and the third party is not a parent or legal guardian, the facility may require the juvenile to agree to have the request filed on his or her behalf and may require the juvenile to personally pursue any subsequent steps in the grievance process; (d) if the offender declines to have the request processed on his or her behalf the facility will document the offender's decision." This language is mirrored in the Montana Women's Prison Operational Procedure MWP 3.3.3, *Offender Grievance Program*, 10/10/2017.

During the 12-month documentation period, there were no grievances filed by a third party on behalf of an offender. As a result, there is no secondary documentation available for review. However, knowledge of this provision was confirmed in an interview with the Grievance Coordinator.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.52 (f)

Agency policy DOC 3.3.3, *Offender Grievance Program*, 08/28/2016, section IV.D.6. (page 4) requires that, "Procedures for the filing of an emergency grievance alleging that an offender is subject to a

substantial risk of imminent sexual abuse must include: (a) the grievance, or any portion thereof that alleges the substantial risk of imminent sexual abuse, will immediately be forwarded to a level of review at which immediate corrective action may be taken; (b) an initial response will be provided within 48 hours; (c) a final decision will be made within five calendar days; and (d) the initial response and final decision will document the determination whether the offender is in substantial risk of imminent sexual abuse and the action taken in response to the emergency grievance.”

The Montana Women’s Prison Operational Procedure MWP 3.3.3, *Offender Grievance Program*, 10/10/2017, section III.M.1. and 2. (page 8), requires that, “Inmates alleging actual, or risk of, immediate physical harm may file a formal emergency grievance. Inmates may report staff on inmate and inmate on inmate sexual misconduct using the emergency grievance process in accordance with *DOC Policies 1.3.12, Staff Association and Conduct with Offenders*, and *1.1.17 Prison Rape Elimination Act of 2003 (PREA)*.”

While on site, the Auditor interviewed the Grievance Coordinator who reported that with an emergency grievance, the offender files the same grievance form, but writes “emergency” on it, circles “emergency” on the form, and hands it to a Shift Lieutenant or their Floor Officer. The Lieutenant will investigate it to determine if the issue is truly emergent; if yes, the Lieutenant will take immediate indicated actions to address it. If it isn’t an emergency, the grievance is processed through the standard grievance system. The Warden is also notified whenever an emergency grievance is filed.

During the 12-month documentation period, no emergency grievances were submitted alleging a substantial risk of imminent sexual abuse. As such, there is no secondary documentation available for review.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.52 (g)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.F.5. (page 8) requires that, “Reports made in bad faith, which include deliberately malicious reports by offenders of other parties, will result in disciplinary action and/or criminal charges.” This language is mirrored in the Montana Women’s Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

Agency policy DOC 3.3.3, *Offender Grievance Program*, 08/28/2016, section IV.D.8. (page 4), specifies that, “The facility or program may discipline an offender for filing a grievance related to alleged sexual abuse only where the facility or program demonstrates that the offender filed the grievance in bad faith.” This language is mirrored in the Montana Women’s Prison Operational Procedure MWP 3.3.3, *Offender Grievance Program*, 10/10/2017.

Per the PCM, there were no offenders who were disciplined during the audit documentation period for submitting a grievance maliciously or in bad faith. As a result, there is no secondary documentation available for review.

While on site, the Auditor interviewed the staff member who fills both roles of Offender Disciplinary Hearing Officer and Grievance Coordinator. The individual reported that offenders overall would only be disciplined if an investigation proved that the allegation was false and made in bad faith, adding that an offender would not be disciplined if she believed she was reporting an allegation in good faith. Per the Grievance Coordinator, there were no offenders who were disciplined during the audit documentation period for submitting a grievance maliciously or in bad faith.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017
- Montana Women's Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019
- Agency policy DOC 3.3.3, *Offender Grievance Program*, 08/28/2016
- Montana Women's Prison Operational Procedure MWP 3.3.3, *Offender Grievance Program*, 10/10/2017
- PREA-related grievance log
- Examples of grievances submitted regarding sexual abuse / harassment
- MT Women's Prison Inmate Handbook (revise 2019)
- Response to test grievance dropped while Team was on site.

Interviews conducted:

- Offenders who Reported Sexual Abuse
- Grievance Coordinator
- Offender Disciplinary Hearing Officer

Standard 115.53: Inmate access to outside confidential support services

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

115.53 (a)

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

115.53 (b)

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

115.53 (c)

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

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does

not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

115.53 (a)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.J.6. (page 11), requires that, "Each facility will provide all offenders with access to outside victim advocates for emotional support services related to sexual abuse by giving offenders mailing addresses and telephone numbers of local, state, or national victim advocacy or rape crisis organizations. The facility will enable reasonable communication between offenders and these organizations in as confidential a manner as possible."

The Auditor was provided with an agreement between MDOC / MWP and the YWCA Billings that went into effect 07/12/2019 and remains in effect until terminated. It is noted that this is an updated agreement to one that had been in place previously. This agreement states in part:

Montana Women's Prison agrees to:

D. Enable reasonable communication between inmates and the YWCA in as confidential a manner as possible. MWP will determine, in its sole discretion, whether the communication opportunity is reasonable in light of housing assignment, physical facility limitations, safety and security concerns, and operational considerations including staffing levels. MWP will also determine, in its sole discretion, whether the communication opportunity is as confidential as is possible in the circumstances of a secure prison facility. In that regard, MWP will facilitate as private an environment for such communications as is practical as determined by MWP in its sole discretion. Inmate phone calls (initiated or received by the inmate) are recorded pursuant to established Montana Department of Corrections policy subject to limited established exceptions and protocols. Inmate mail sent to the YWCA or from the YWCA will be treated as legal or privileged correspondence and may not be read by staff.

YWCA agrees to:

- Respond to requests from the MWP to provide advocacy when inmates are brought to a Billings area medical facility for sexual assault forensic medical exams.*
- Provide emotional support services and crisis intervention contacts to victims of sexual assault at the MWP, as resources allow.*

Offenders are informed of available support services through the brochure End the Silence – Zero Tolerance for Sexual Abuse and Sexual Harassment: Prison Rape Elimination Act (PREA) which states:

If you are abused

Confidential support services are available from YWCA and can be reached at:

YWCA-Billings

900 Wyoming Ave.

Billings MT 59101

Help Line: 406-245-4472

The Auditor conducted a telephone interview with a representative from the YWCA Billings, confirming the provision of support services, to include accompaniment during a forensic medical examination, accompaniment during investigatory interviews and court proceedings, emotional support services, crisis intervention, provision of support-related information, and applicable referrals. All services are provided at the request of the offender survivor. The representative indicated that services can be provided over the telephone, via mail, onsite at the facility, and while the offender is at the hospital for a forensic exam. The representative reported that services have been requested on a very infrequent basis, less than five (5) times since the initiation of services under the MOU.

While on site, it was learned that offenders could also contact the YWCA Missoula, the organization that serves as the facility's external reporting entity, and request advocacy services in addition to or instead of those provided by the YWCA Billings. Advocates from the YWCA Missoula are only able to provide support via telephone and are not able to provide on-site services at the facility. This is only available from the advocates of the YWCA Billings.

During interviews conducted with random offenders, a majority reported not knowing about victim advocacy support services, however, following additional discussion, most reported receiving the brochure and seeing poster, but didn't pay much attention to them. As a result, a recommendation was made to provide refresher / enhanced information to all offenders during facility orientation. On 09/16/2019, the Auditor was provided with a revised PowerPoint presentation for offender orientation, incorporating additional victim advocacy-related information.

The one offender who had reported an allegation who was still housed at the facility at the time of the on-site review indicated that she had not been offered advocacy services. However, she was able to identify the posters that provided access information. Additionally, the allegation reported did not indicate the need for a forensic medical examination and/or advocacy access provided by the facility.

It is noted that MDOC does not detain offenders solely for civil immigration purposes.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.53 (b)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.J.6. (page 11), requires that, "The facility will inform offenders, 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." This is mirrored in the Montana Women's Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019, which specifies that the information will be provided to offenders through the End the Silence brochure.

The Auditor was provided with an agreement between MDOC / MWP and the YWCA Billings that went into effect 07/12/2019 and remains in effect until terminated. It is noted that this is an updated agreement to one that had been in place previously. This agreement states in part:

Montana Women's Prison agrees to:

E. Notify inmates, prior to giving them access to communications with the YWCA, of the extent to which such communications will be monitored and the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws.

CONFIDENTIALITY

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

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

Generally, YWCA:

- A. Has a legal obligation to protect any personally identifiable information about a victim or client;*
- B. Will not release any information about the victim or client without clearly informed, written and signed, reasonably time-limited consent of the client; and*
- C. Will only share the specific information the client allows in a release; except where:*

- i. There is risk of harm to self and/or others;*
- ii. YWCA advocates are required by law to report suspected child abuse or neglect; or*
- iii. YWCA advocates are required by law to report information necessary to seeking help in medical emergencies.*

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

- A. A survivor of sexual abuse retains the right to choose when, how, and what personal information will be shared, or not shared, and with whom; and*
- B. YWCA and its advocates are responsible for respecting and honoring the victim's wishes and safeguarding any of the victim's or client's information that they collect or hold.*

The Auditor conducted a telephone interview with a representative from the YWCA Billings. She confirmed that the agency would release information only when there was a significant risk of harm, to include suicidal ideation with a plan and means, a medical emergency in which an EMT would be contacted, or suspected child abuse or neglect in which the child abuse hotline would be called. The representative also indicated that information could be disclosed with a signed consent or release of information, adding that the release would be valid only for a short period of time and would specify exactly to whom information could be released. She reported that advocates would have an in-depth discussion with any survivor at the onset of services regarding consent and confidentiality.

Offenders are informed of available support services through the brochure End the Silence – Zero Tolerance for Sexual Abuse and Sexual Harassment: Prison Rape Elimination Act (PREA) which states, “All communication with YWCA advocates is subject to monitoring in accordance with MWP Procedure 3.3.6 Offender Mail and MWP Procedure 3.3.7 Offender Access to Telephones.” The Auditor was provided with a copy of both procedures.

- *Offender Mail* details procedures for the submission and handling of privileged correspondence, however, it does not specifically identify YWCA advocates as a member of this group. It is recommended that clarification be added on the next procedure revision to provide additional information for offenders.
- *Offender Access to Telephone* providing information to offenders that all calls, except for those made to the attorney of record, will be monitored and recorded. The procedure also notes (section III.E.3., page 4) that, “The contents of an intercepted and recorded telephone conversation will be divulged only as necessary to safeguard the orderly operation of the facility, in response to a court order, or in the prosecution of investigation of a crime.”

It is noted that these procedures are available in the offender library and upon request.

During interviews conducted with random offenders, a majority reported not knowing about victim advocacy support services, however, following additional discussion, most reported receiving the brochure and seeing poster, but didn't pay much attention to them. As a result, a recommendation was made to provide refresher / enhanced information to all offenders during facility orientation. On 09/16/2019, the Auditor was provided with a revised PowerPoint presentation for offender orientation, incorporating additional victim advocacy-related information.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.53 (c)

The agency has an agreement with the YWCA Billings that went into effect 07/16/2019 and remains in effect until terminated.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017
- Agreement between MDOC/MWP and the YWCA Billings in effect 07/16/2019 until terminated
- Montana Women's Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019
- Brochure End the Silence – Zero Tolerance for Sexual Abuse and Sexual Harassment: Prison Rape Elimination Act (PREA)
- Montana Women's Prison Operational Procedure MWP 3.3.6, *Offender Mail*, 06/05/2013
- Montana Women's Prison Operation Procedure MWP 3.3.7, *Offender Access to Telephones*, 10/02/2015
- 09/16/2019 revisions to offender orientation PowerPoint materials

Interviews conducted:

- Offenders who Reported Sexual Abuse
- Random Sample of Offenders
- Representative from Community-Based Advocacy Organization

Standard 115.54: Third-party reporting

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

115.54 (a)

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

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

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

115.54

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.F.3.a. (page 8), requires that, "Offenders 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." This language is mirrored in the Montana Women's Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

The Auditor reviewed the PREA information posted to the agency's public website at <http://cor.mt.gov/PREA>. That information included, but was not limited to, the following:

- Overview
- Federal requirements
- Contact information for PREA Coordinator
- Implementation in Montana
- Penalty for not reporting
- Anyone who suspects or has knowledge of any sexual harassment, sexual abuse, or sexual misconduct should report it to a staff member, volunteer, supervisor, administrator, HR official or the PREA unit

- Reporting mechanisms for inmates.

The Auditor conducted a test of the reporting processes available to the general public per the information on the agency's public website.

- An email was submitted to CORPREAreporting@mt.gov on 07/31/2019, requesting confirmation of receipt via return email along with information about how an allegation / PREA-related information received in this manner would be handled. A response was received via email on 07/31/2019, including the following information:
"I have access to this email address, as does my supervisor and one of my coworkers in the Quality Assurance Office. When we receive information via this email address, it is forwarded based on what type of information is provided. That could be for a new investigation to be opened, added to a current case already in progress, reported to other agencies if it involves something outside of MDOC, etc."
- A letter was sent via US mail to the agency PREA Coordinator on 08/01/2019. The letter requested confirmation of receipt via email along with information about how an allegation / PREA-related information received in this manner would be handled. A response was received via email on 08/05/2019, including the following information:
"I received your letter (attached) in the mail today testing our reporting mechanism. This letter came directly to me, unopened. If this was an allegation/PREA-related information, I would determine how it was handled based on the information enclosed. I could forward it for a new investigation to be opened, send it to an investigator assigned to be added to a current case already in progress, reported to other agencies if it involves something outside of MDOC, etc."

The public also has the option to report PREA allegations / information by calling the PREA Coordinator directly.

Posters are placed in areas of the facility accessible by the public and facility staff that include the following information:

Prison Rape Elimination Act (PREA) Reporting

Anyone who suspects or has knowledge of any sexual abuse or sexual harassment of an inmate in any correctional facility should report it to a staff member, Volunteer, Supervisor, Administrator, Human Resources Official or the PREA Compliance Manager.

If you need to report sexual abuse or sexual harassment on behalf of an inmate, please tell a staff member or contact:

Montana Department of Corrections PREA Coordinator

[Name of PREA Coordinator]

2 South Last Chance Gulch

P.O. Box 201301

Helena Montana 59620-1301

Phone Number: 406-444-6583

Email Address: CORPREAreporting@mt.gov

Montana Women's Prison PREA Compliance Manager

[Name of MWP PREA Compliance Manager]

701 South 27th Street

Billings, Montana 59101

Phone number: 406-247-5121

Email Address: [email address of MWP PCM]

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017
- Montana Women's Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019
- Email responses to tests of public reporting venues detailed on the agency's public website
- Poster of information regarding public / staff reporting information

Interviews conducted:

- None are required by the DOJ audit tools and templates

OFFICIAL RESPONSE FOLLOWING AN INMATE REPORT

Standard 115.61: Staff and agency reporting duties

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

115.61 (a)

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

115.61 (b)

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

115.61 (c)

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

115.61 (d)

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

115.61 (e)

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

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

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

115.61 (a)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.H.1. (page 8), requires that, "Department employees and service providers will report immediately any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in a facility, whether or not it is part of the department; retaliation against offenders or employees who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation." The same policy, section IV.H.10. and .11 (page 9) requires that, "Sexual abuse or harassment by an employee, service provider, or offender will be reported in accordance with *DOC Policy 1.1.6 Priority Incident Reporting and Acting Director*. Reports of sexual abuse or sexual harassment by an employee, service provider, or offender will be forwarded to the Office of Investigations, facility PREA compliance manager and the Department PREA coordinator within one business day." The policy (section IV.H.12., page 9) also specifies, "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." This language is mirrored in the Montana Women's Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

All staff interviewed indicated that they would accept allegation information, regardless of the manner in which it was reported. They also indicated that this information would be reported to the highest ranking individual on shift immediately upon receipt, followed by a written report as soon as possible, based on the circumstances, but that this would always be completed prior to the end of the current shift. Offenders indicated they had the ability to report allegations verbally, in writing, or via a third party. Many indicated they were comfortable speaking with any staff member and could also contact their family members to relay information if needed.

It is recommended that a clarification to policy be written on the next policy revision. In one section of the policy, the reporting timeframe is "promptly" (section IV.f.4.) but is indicated as "immediately" in another section (section IV.H.1.). Staff clearly understand the immediacy of reporting requirements, so this is not considered a compliance issue, but rather one of clarification.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.61 (b)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.H.6. (page 9), requires that, “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..” This language is mirrored in the Montana Women’s Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

All staff interviewed were aware of the confidentiality restrictions associated with allegations and related investigations.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.61 (c)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.H.7. (page 9), requires that, “Unless otherwise precluded by law, medical and mental health practitioners will report sexual abuse according to facility procedures and will inform offenders of their duty to report, and the limitations of confidentiality, at the initiation of services.” This language is mirrored in the Montana Women’s Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

The Auditor was provided with the Montana Department of Corrections Clinical Services Division Disclosure and Consent for Services – Medical, Dental and Mental Health Services – Montana Women’s Prison form, which offenders are required to sign prior to the provision of services. This form indicates, “Clinical Services Division staff are obligated to break confidentiality and report any threat of harm to yourself or others, child abuse, elder abuse, sexual abuse or threat of escape.” Per email information from the PREA Coordinator, “The language of the form is broad to cover all possibilities of what is required to be reported by Montana law, including those that do not require consent prior to disclosure such as information involving abuse of a minor or vulnerable adult. You’ll notice that the language also does not specify who that information will be reported to. This language is also broad as it may have to be reported to law enforcement or DPHHS but it also may just have to be reported within the facility in order to do follow-up assessments, treatment, etc.”

Both medical and mental health staff interviewed clearly articulated their duty to report any allegation regarding any offender while incarcerated and the requirement to obtain informed consent prior to the release of any information related to abuse suffered while in the community. All offenders are made aware of this requirement during intake procedures with health services staff. Additionally, the information is included on treatment consent forms. Per mental health providers, the requirement to report any PREA-related information is also thoroughly reviewed with an offender prior to the initiation of any mental health services.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.61 (d)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.H.4. (page 9), requires that, “If the alleged victim is under the age of 18, the administrator, or designee, must report the allegation to the Department of Public Health and Human Services in accordance with 41-3-201, MCA.” The Auditor reviewed Montana Code Annotated, section 41-3-201, Reports, which requires, “(1) When the professionals and officials listed in subsection (2) know or have reasonable cause to

suspect, as a result of information they receive in their professional or official capacity, that a child is abused or neglected by anyone regardless of whether the person suspected of causing the abuse or neglect is a parent or other person responsible for the child's welfare, they shall report the matter promptly to the department of public health and human services. (2) Professionals and officials required to report are...(f) a foster care, residential, or institutional worker; (g) a peace officer or other law enforcement official." This language is mirrored in the Montana Women's Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.H.5. (page 9), also requires that, "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." This language is mirrored in the Montana Women's Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019. The Auditor reviewed Montana Code Annotated, section 52-3-811, Reports, which requires, "(1) When the professionals and other persons listed in subsection (3) know or have reasonable cause to suspect that an older person or a person with a developmental disability known to them in their professional or official capacities has been subjected to abuse, sexual abuse, neglect, or exploitation, they shall: (a) if the person is not a resident of a long-term care facility, report the matter to: (i) the department or its local affiliate; or (ii) the county attorney of the county in which the person resides or in which the acts that are the subject of the report occurred...(3) Professionals and other persons required to report are...(g) a peace officer or other law enforcement official."

There were no allegations of abuse during the facility's documentation period in which the alleged victim was a vulnerable adult as defined in Montana Annotated Code. As such, there is no secondary documentation available for review. During PREA Coordinator and Warden interviews, it was confirmed that any such allegations received would be reported to Department of Public Health and Human Services.

MWP does not house juvenile offenders, but the Auditor also confirmed that no reports were made by adult offenders about incidents that allegedly occurred while they were juveniles. The PCM confirmed that if such an allegation were to be received, it would be reported to the Department of Public Health and Human Services. This was also confirmed in an interview with the Warden.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.61 (e)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.H.9. and 11 (page 9), requires that, "Potential criminal conduct will be reported to the LEAJ first, immediately followed by the Office of Investigations. If the Office of Investigations has primary jurisdiction over a facility's criminal investigations, however, that facility will report potential criminal conduct only to the Office of Investigations...Reports of sexual abuse or sexual harassment by an employee, service provider, or offender will be forwarded to the Office of Investigations, facility PREA compliance manager and the Department PREA coordinator within one business day."

The Auditor was provided with a listing of all investigations conducted during the facility's audit documentation period, confirming the initiation of a formal investigation for all allegations received, regardless of the method in which the allegation was reported. This was also confirmed in an interview with the Warden.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017
- Montana Women's Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019
- Montana Code Annotated 2015, section 41-3-201 Reports
- Montana Code Annotated 2015, section 52-3-811 Reports

Interviews conducted:

- Medical and Mental Health Staff
- PREA Coordinator
- Random Sample of Staff
- Warden

Standard 115.62: Agency protection duties

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

115.62 (a)

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

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

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

115.62

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.A.2. (page 2) requires, "Administrators, or designees, will immediately respond to allegations of sexual abuse and sexual harassment, fully investigate reported incidents, pursue disciplinary action, and refer for investigation those who violate the requirements set forth in this policy."

The Montana Women's Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019, section III.A.2. and 3. (page 3 – 2), requires that, "All employees and service providers are required to report any allegations of sexual abuse and sexual harassment. The Warden, or designee, will immediately respond to allegations of sexual abuse and sexual harassment, fully investigate reported incidents, pursue disciplinary action, and refer for investigation those who violate the requirements set forth in this procedure."

During the audit documentation period, there were no instances in which facility staff determined that an offender was subject to substantial risk of imminent sexual abuse. As such, there is no secondary documentation available for review.

During interviews, both the Director and Warden reported that immediate actions would include assessing the situation, determining the source of the risk, separating the offender from that risk, providing of medical and mental health services, and completing a thorough investigation coupled with regular monitoring of the alleged victim / at risk offender.

Random staff interviewed clearly articulated initial response duties, to include protection of the alleged victim, separation of the participants, notifications, protection of the crime scene, and provision of medical and mental health services. They all reported that these actions would be initiated immediately on receipt of allegation or risk information. It was noted however, that a few of the newer staff interviewed appeared to believe that the alleged victim would be placed in close observation, which did not prove true based on additional interviews and documentation reviewed. It is recommended that staff be provided with a refresher of this process along with the requirement to ask the victim and require the perpetrator not to take actions that may destroy evidence as a few staff interviewed needed prompting regarding this differentiation.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017
- Montana Women's Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019

Interviews conducted:

- Agency Head
- Random Sample of Staff
- Warden

Standard 115.63: Reporting to other confinement facilities

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

115.63 (a)

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

115.63 (b)

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

115.63 (c)

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

115.63 (d)

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

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

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

115.63 (a)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.H.8. (page 9), requires that, "Allegations that an offender was sexually abused while at another facility must be reported by the administrator 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 juvenile facility the administrator will also notify the appropriate investigative agency." This language is mirrored

in the Montana Women's Prison Operational Memorandum MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

The PREA Coordinator provided a memo that indicates that, "Reports to other confinement facilities are documented in the Department's PREA SharePoint web based program." The system documents:

- Victim name,
- Suspect name,
- Incident facility,
- Report received date,
- Incident date,
- Reported to (name and title),
- Reported by (name and title),
- Reported on date,
- Report method, and
- Notes.

The Auditor was provided with documentation of applicable allegations from the agency's SharePoint site, confirming inclusion of all noted information and notifications made in compliance with standard requirements. It is noted that in five (5) of the nine (9) allegations, notification was provided by the Warden. In three (3), notification was provided by the Associate Warden, and one (1) by the PCM. It is recommended that the individual entering the data include information when notification is made by someone other than the Warden due to the absence of the Warden and another designated individual is serving in an "acting" capacity.

During interviews with the Director and Warden, it was confirmed that such allegations would be promptly forwarded to the head of the noted facility or jurisdiction. The Warden added that MWP would open a case in order to track the investigation of the allegation reported; that they would follow up with the noted facility or jurisdiction in order to have needed information to manage the offender in their charge.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.63 (b)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.H.8. (page 9), requires that, "Allegations that an offender was sexually abused while at another facility must be reported by the administrator to the administrator of the facility where the abuse occurred as soon as possible but no later than 72 hours after the initial report." This language is mirrored in the Montana Women's Prison Operational Procedure 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019

The Auditor was provided with documentation of applicable allegations from the agency's SharePoint site, confirming the provision of required notifications within the required 72 hours.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.63 (c)

The PREA Coordinator provided a memo that indicates that, "Reports to other confinement facilities are documented in the Department's PREA SharePoint web based program." The system documents:

- Victim name,
- Suspect name,
- Incident facility,

- Report received date,
- Incident date,
- Reported to (name and title),
- Reported by (name and title),
- Reported on date,
- Report method, and
- Notes.

The Auditor was provided with documentation of applicable allegations from the agency's SharePoint site, confirming inclusion of all noted information.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.63 (d)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.H.11. (page 9), requires that, "Reports of sexual abuse or sexual harassment by an employee, service provider, or offender will be forwarded to the Office of Investigations, facility PREA compliance manager and the Department PREA coordinator within one business day." The same policy, section IV.K.1. (page 11), requires that, "All reported incidents of sexual abuse and sexual harassment will be investigated." This language is mirrored in the Montana Women's Prison Operational Procedure 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

During the audit documentation period, no allegations regarding MWP were received from other facilities or jurisdictions. As a result, there is no secondary documentation available for review.

During interviews with the Director and Warden, it was confirmed that any allegation received would be promptly investigated, regardless of the information source.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017
- Montana Women's Prison Operational Memorandum MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019
- 10/19/2017 memo from PREA Coordinator regarding system to track reports to other confinement facilities

Interviews conducted:

- Agency Head
- Warden

Standard 115.64: Staff first responder duties

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

115.64 (a)

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

115.64 (b)

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

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does

not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

115.64 (a)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.B.1. (page 3) requires that, “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.” The same policy, section IV.G.1. (page 8), requires that, “Upon learning of an allegation that an offender 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.” This language is mirrored in the Montana Women’s Prison Operational Procedure 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

During the audit documentation period, no allegations were reported within a time period that still allowed for the collection of physical evidence. As a result, no secondary documentation was available for review.

Random staff interviewed clearly articulated initial response duties, to include protection of the alleged victim, separation of the participants, notifications, protection of the crime scene, and provision of medical and mental health services. They all reported that these actions would be initiated immediately on receipt of allegation or risk information. It was noted however, that a few of the newer staff interviewed appeared to believe that the alleged victim would be placed in close observation, which did not prove true based on additional interviews and documentation reviewed. It is recommended that staff be provided with a refresher of this process along with the requirement to ask the victim and require the perpetrator not to take actions that may destroy evidence as a few staff interviewed needed prompting regarding this differentiation.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.64 (b)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.G.2. (page 8) requires that, “If the first employee or service provider to learn of an allegation that an offender 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.” This language is mirrored in the Montana Women’s Prison Operational Procedure 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

During the audit documentation period, no allegations were reported within a time period that still allowed for the collection of physical evidence. As a result, no secondary documentation was available for review.

Staff are provided with a pocket reminder card regarding PREA-related response. This card reads:

PREA

Steps to follow if an inmate informs you they were raped or sexually abused

- Safeguard the inmate and ensure victims and alleged perpetrators are kept separated.
 - Escort the victim and alleged perpetrator to medical
 - Protect the crime scene

- Ask the victim if they want to speak to mental health
 - Notify the highest ranking authority on-site
- Keep all information confidential and complete an incident report.

Non-custody staff interviewed expressed a thorough understanding of their response duties, to include protection of the alleged victim, separation of the individual from the suspect, protection of the crime scene, and notification. All expressed a collaborative working relationship with custody staff, indicating that they counted on each other for assistance and support in everything, not just PREA-related issues. It is recommended that if the “green card” is updated, expanded information regarding requesting alleged victims and ensuring suspects do not take actions that might destroy evidence be somehow included. Staff clearly use the green cards and it has become an invaluable source of information for all staff, regardless of classification.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017
- Montana Women’s Prison Operational Procedure 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019
- Pocket reminder card regarding PREA-related response

Interviews conducted:

- Offenders who Reported Sexual Abuse
- Random Sample of Staff
- Security and Non-Security Staff First Responders

Standard 115.65: Coordinated response

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

115.65 (a)

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

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

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

115.65

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.G.3. (page 8) requires that, "Each 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." This language is mirrored in the Montana Women's Prison Operational Procedure 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

The Auditor was provided with the facility's response plan as updated 07/19/2019 as well as the plan that had been in place prior to that time (dated 02/28/2017). Both plans detail coordinated responses among first responders, medical and mental health staff, shift commanders, the PCM, the Warden, and victim advocates. The revised plan consolidated the information into a flow chart accompanied by response checklists for:

- Staff on offender sexual assault allegations,
- Offender on offender allegations of sexual assault that occurred within the past 72 hours and indicate a forensic medical examination, and
- Offender on offender allegations of sexual assault that occurred outside the 72-hour timeframe.

During an on-site interview, the Warden confirmed the development of a facility specific response plan. She added that all staff are required to carry “green cards” detailing first response actions. The card reads:

PREA

Steps to follow if an inmate informs you they were raped or sexually abused

- Safeguard the inmate and ensure victims and alleged perpetrators are kept separated.
 - Escort the victim and alleged perpetrator to medical
 - Protect the crime scene
 - Ask the victim if they want to speak to mental health
 - Notify the highest ranking authority on-site
- Keep all information confidential and complete an incident report.

During random staff interviews, most staff indicated first response activities would include protection of the crime scene and several indicated they would ask the alleged victim not to take any actions that had the potential to destroy evidence. However, a few reported that they would take the alleged victim to an intake cell and others indicated medical staff would be responsible for the provision of this type of information to offenders. The Auditor recommends that the facility build on the best practice of the “green cards” and add this information if the card is revised or ensure a thorough understanding by all staff via refresher information, a drill, or some other mechanism.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017
- This language is mirrored in the Montana Women’s Prison Operational Procedure 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019
- MWP PREA Response Plan 07/19/2019
- MWP PREA Response Plan 02/28/2017
- Response card provided to all staff

Interviews conducted:

- Warden

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

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

115.66 (a)

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

115.66 (b)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

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

115.66 (a)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.B.5. (page 3), requires that, "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 offender pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted." This language is mirrored in the Montana Women's Prison Operational Procedure 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

The Auditor located on the agency's public website the Collective Bargaining Agreement between Montana Federation of Women's Prison Employees Local #4699, MEA-MFT, AFL-CIO and Montana Department of Corrections Women's Prison, 2017 – 2019. This agreement was made and entered into on 11/22/2017. Article 5 (page 8 – 9) notes, "The Employer retains all rights to manage, direct, and control its business in all particulars except as such rights are modified or waived by the terms of this

Agreement. The Federation and its members recognize the prerogatives of the Employer to operate and manage its affairs in such areas as but not limited to...(B) hire, promote, transfer, assign, and retain employees”.

The Auditor was provided with templates for notification that a staff member has been placed on administrative leave pending investigation into noted allegations. The agency has developed a template for both represented and non-represented staff, further demonstrating the ability to reassign an individual as needed pending the completion of a PREA-related investigation.

The Auditor confirmed in an interview with the Director that current labor agreements permit the agency to remove alleged abusers from contact with offenders during the course of an investigation and impose applicable discipline based on that investigation.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.66 (b)

The Auditor was provided with copies of applicable sections of the bargaining agreement in place at MWP and confirmed compliance with this subsection.

Documentation provided for this standard:

- Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017
- Montana Women’s Prison Operational Procedure 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019
- Collective Bargaining Agreement between Montana Federation of Women’s Prison Employees Local #4699, MEA-MFT, AFL-CIO and Montana Department of Corrections Women’s Prison, 2017 – 2019
- Administrative leave notification templates for represented and non-represented staff

Interviews conducted:

- Agency Head

Standard 115.67: Agency protection against retaliation

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

115.67 (a)

- Has the agency established a policy to protect all inmates and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other inmates or staff? Yes No
- Has the agency designated which staff members or departments are charged with monitoring retaliation? Yes No

115.67 (b)

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

115.67 (c)

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

- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor negative performance reviews of staff? Yes No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor reassignments of staff? Yes No
- Does the agency continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need? Yes No

115.67 (d)

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

115.67 (e)

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

115.67 (f)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

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

115.67 (a)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.I.1. and 7. (page 9 - 10), requires that, "The Department will not tolerate retaliation against offenders, employees, or other parties for reporting sexual abuse or sexual harassment or cooperating with an investigation. Individuals that retaliate against any offender or witness are subject to disciplinary action...Each facility

will designate staff members responsible for retaliation monitoring.” This language is mirrored in the Montana Women’s Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019, which adds that, “Retaliation Monitoring will be assigned by the PREA Compliance Manager to the inmate’s Case Manager.”

The Auditor was informed that three Case Managers from the Case Management Department have been designated as those individuals responsible for retaliation monitoring. Per the PCM, a staff reporter would either be monitored by the PCM or a staff member from Human Resources.

It is recommended that the assignment of staff monitoring responsibilities are added to the facility operational procedures on its next revision.

It is noted that a letter from an MWP offender was received by the Auditor on 09/19/2019 that included allegations of retaliation that were not related to PREA but to perceived issues in the facility and community. The letter was forwarded to the agency PREA Coordinator on the day of receipt for action as needed.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.67 (b)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.I.2. (page 9), requires that, “Facilities will employ multiple protective measures, such as transfers or removals to separate victims from abusers, and emotional support services.” This language is mirrored in the Montana Women’s Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

The Auditor was informed that there were no instances in which any allegations or indicators of retaliation were reported. As a result, there is no secondary documentation available regarding protective measures. Additionally, there were no offenders housed in segregated housing following the report of an allegation; as such, no related interviews were conducted.

The Director and Warden both reported comprehensive monitoring and investigation of any information related to retaliation. The Director indicated this relied on education and the provision of a clear path for individuals to feel free to report issues and concerns. The Warden added that based on the physical structure of the facility, separations, particularly between offenders can be relatively easily accomplished (e.g., floor, dining, etc.). Individuals charged with retaliation monitoring activities clearly articulated policy required processes along with the factors predominantly viewed as indicators of retaliation (e.g., work and housing assignments, grievances infractions, deviations from the offender’s baseline behavior, etc.)

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.67 (c)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.I.3. through 6. (page 9 – 10), requires that, “The facility will monitor, for at least 90 days, the conduct and treatment of offenders and employees who reported sexual abuse or sexual harassment and offenders 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. Monitoring will include reviewing any offender disciplinary reports, housing or program changes, or negative performance reviews or reassignments of employees. For offenders, monitoring will also include periodic status checks. If an offender is transferred from one Department facility to another Department facility during his or her monitoring, the

transferring facility will notify the receiving facility of the offender'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. The facility will act promptly to remedy any detected retaliation." This language is mirrored in the Montana Women's Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

The Auditor was provided with a blank Prison Rape Elimination Act (PREA) Retaliation Monitoring Data Sheet. The form indicates whether the monitoring activities are new or a continuation of previous activities. The form is used for monitors to record dates of meetings with offenders and actions taken during monitoring activities related to both staff and offenders.

These actions include:

- Reviewed disciplinary reports
- Reviewed housing changes
- Reviewed program changes
- Reviewed performance evaluations
- Reviewed staff reassignments
- Face-to-face contact

The monitor is also required to detail specific follow up needed and when / to whom the information was referred to. The form also contains a section for monitoring conclusions as follows:

- Monitoring complete – no retaliation found
- Monitoring complete – retaliation addressed and resolved
- Transferred to (if other add location)
- Discharged
- Continue monitoring for additional 30 days; Reason: _____

The Auditor was also provided with the Retaliation Monitoring Instruction Guide, which guides the user through all steps of the process, including how to complete the monitoring form.

The Auditor was provided with a memo from the PCM that indicated, "In April 2019 it came my attention that Case Managers ceased retaliation monitoring at the request of the inmate. However, the case managers continued meeting with the inmate for normal case management reasons. Following that discovery, all retaliation monitoring within the 90 days was reinstated and case managers were instructed to continue monitoring even when the inmate requested not to be monitored."

The Auditor was also provided with a spreadsheet detailing the monitoring of fifty-one (51) individuals. In seventeen (17) of these, monitoring was discontinued after the initial meeting. One of these noted that the case was closed as unfounded. However, sixteen (16) of these noted that the offender no longer wanted to be monitored. As noted above, the process was corrected by the PCM in April 2019. The Auditor reviewed a total of twelve (12) Retaliation Monitoring Data Sheets, focusing on the period between April and August 2019, confirming completion of monitoring as required by the standard and successful implementation of the correction developed by the PCM.

The Auditor was informed and confirmed with the monitoring data sheets reviewed that there were no instances in which any allegations or indicators of retaliation were reported. As a result, there is no secondary documentation available regarding protective measures.

During an interview, the Warden reported she would ensure a thorough investigation were conducted regarding any report or indicator of retaliation, holding accountable those staff or offenders who engaged

in such behavior. She also reported that mental health programming is available for offenders to help reshape thinking.

Interviews of those individuals responsible for retaliation monitoring indicated the development of a schedule whereby this is accomplished, with the first meeting with the offender within fifteen (15) days of the initiation of the investigation. Follow up meetings with the offender are then conducted at 30 days, 45 days, and 90 days.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.67 (d)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.I.4. (page 10), requires that, "For offenders, monitoring will also include periodic status checks." This language is mirrored in the Montana Women's Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

The Auditor was provided with examples of completed retaliation monitoring forms, documenting periodic meetings with offenders who reported allegations and/or were alleged victims of alleged misconduct.

Interviews of those individuals responsible for retaliation monitoring indicated the development of a schedule whereby this is accomplished, with the first meeting with the offender within fifteen (15) days of the initiation of the investigation. Follow up meetings with the offender are then conducted at 30 days, 45 days, and 90 days.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.67 (e)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017 section IV.I.1. (page 9), requires that, "The Department will not tolerate retaliation against offenders, employees, or other parties for reporting sexual abuse or sexual harassment or cooperating with an investigation. Individuals that retaliate against any offender or witness are subject to disciplinary action." This language is mirrored in the Montana Women's Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

The Auditor was informed that there were no instances in which any allegations or indicators of retaliation were reported. As a result, there is no secondary documentation available regarding protective measures.

Both the Director and Warden expressed an intolerance related to retaliation of any individual who cooperated with an investigation of any kind. They both indicated it started with the clear articulation of guidelines against retaliation, followed by responsiveness to any complaint and a thorough investigation in which those who engaged in such behavior would be held accountable.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.67 (f)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.I.8. (page 10), requires that, "The facility's obligation to monitor retaliation may be terminated if the allegation is determined to be unfounded." This language is mirrored in the Montana Women's Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

The Auditor was provided with a memo from the PCM that indicated, "In April 2019 it came my attention that Case Managers ceased retaliation monitoring at the request of the inmate. However, the case managers continued meeting with the inmate for normal case management reasons. Following that discovery, all retaliation monitoring within the 90 days was reinstated and case managers were instructed to continue monitoring even when the inmate requested not to be monitored."

The Auditor was also provided with a spreadsheet detailing the monitoring of fifty-one (51) individuals. In seventeen (17) of these, monitoring was discontinued after the initial meeting. One of these noted that the case was closed as unfounded. However, sixteen (16) of these noted that the offender no longer wanted to be monitored. As noted above, the process was corrected by the PCM in April 2019. The Auditor reviewed a total of twelve (12) Retaliation Monitoring Data Sheets, focusing on the period between April and August 2019, confirming completion of required monitoring as required by the standard and successful implementation of the correction developed by the PCM.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017
- Montana Women's Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019
- 07/11/2019 memo from the PCM regarding retaliation monitoring
- Blank Prison Rape Elimination Act (PREA) Retaliation Monitoring Data Sheet
- Retaliation Monitoring Instruction Guide
- Examples of completed Prison Rape Elimination Act (PREA) Retaliation Monitoring Data Sheets
- Retaliation monitoring tracking spreadsheet

Documentation of retaliation monitoring for select allegations

Interviews conducted:

- Agency Head
- Designated Staff Member Charged with Monitoring Retaliation
- Offenders who Reported Sexual Abuse
- Warden

Standard 115.68: Post-allegation protective custody

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

115.68 (a)

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

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

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

115.68

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.B.12. and 13. (page 4), requires that, "Victims of sexual abuse and offenders at high risk for sexual victimization will not be placed in segregated 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 a facility cannot conduct such an assessment immediately, the facility may hold the offender in segregated housing for up to 24 hours while completing the assessment. The facility will clearly document the basis for the facility's concern for the offender's safety and the reason no alternative means of separation could be arranged. The facility will review each offender placed in segregated housing for protective purposes every 30 days. Offenders 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." This language is mirrored in the Montana Women's Prison Operational Procedure 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

During the audit documentation period, no offenders who alleged sexual abuse were placed in involuntary segregated housing. As a result, there was no secondary documentation available for review.

The Auditor was provided with a listing of all offenders who alleged sexual abuse during the facility's audit documentation period along with their housing assignments prior to and immediately following the report. Documentation confirmed that these offenders were not placed in segregated housing based on the

report received. Several offenders were placed in segregated housing for separate and unrelated rule violations, which were clearly documented, but not for any actions related to the allegation received.

While on site, the Auditor was informed that any Correctional Officer assigned to locked housing could be considered staff who supervise offender in segregation. The Auditor confirmed in an interview that to the individual's best recollection, the facility has never placed an offender who reported an allegation in segregated housing. The individual noted that any offender in such housing still retains a significant amount of their property, unless it is restricted as the result of a sanction imposed by the Disciplinary Hearing Officer.

In an interview, the Warden reported that neither reporting offenders nor alleged victims are placed in segregation. She noted that the only time she could image this occurring is if the facility received an allegation and at the time, couldn't identify who the victim and perpetrator were (e.g., cross allegations). She added that they would immediately work to collect investigatory information in order to determine who the alleged victim really was, generally within 48 hours, and then return the appropriate offender to general population. She could not recall such an instance in recent history,

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017
- Montana Women's Prison Operational Procedure 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019
- Spreadsheet showing offenders who alleged sexual abuse and housing assignments before and after the allegation was received

Interviews conducted:

- Staff who Supervise Offenders in Segregated Housing
- Warden

INVESTIGATIONS

Standard 115.71: Criminal and administrative agency investigations

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

115.71 (a)

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

115.71 (b)

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

115.71 (c)

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

115.71 (d)

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

115.71 (e)

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

115.71 (f)

- Do administrative investigations include an effort to determine whether staff actions or failures to act contributed to the abuse? Yes No
- Are administrative investigations documented in written reports that include a description of the physical evidence and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings? Yes No

115.71 (g)

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

115.71 (h)

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

115.71 (i)

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

115.71 (j)

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

115.71 (k)

- Auditor is not required to audit this provision.

115.71 (l)

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

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

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

115.71 (a)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.K.1. and 4. through 7. (page 11) requires that, "All reported incidents of sexual abuse and sexual harassment will be investigated. 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*...A request for Investigation (RFI) for all allegations of sexual abuse and sexual harassment will be sent to the Office of Investigations to initiate an investigation. The Office of Investigations will forward reports that do not rise to the level of a criminal investigation to the Office of Human Resources and/or the appropriate administrator, or designee, to be assigned to an investigator for an administrative investigation. 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*. Administrative investigations of employees will be conducted in accordance with *DOC 1.3.13 Administrative Investigations*; individuals assigned to conduct administrative investigations of employees will work in cooperation with the Office of Human Resources." This language is mirrored in the Montana Women's Prison Operational Procedure 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

Agency policy DOC 3.1.19, *Investigations*, 12/14/2018, section IV.A.3.a. and d. (page 3), requires that, "Investigators must conduct prompt, thorough, fair, and objective criminal investigations and exercise professionalism during the course of an investigation...employ sound investigative techniques in accordance with state and federal law, Department rules, policies and procedures."

Agency policy DOC.1.3.13, *Administrative Investigations*, 03/11/2015, detail out procedures and expectations regarding agency administrative investigations.

It is noted that investigators from the Office of Investigations are sworn peace officers and conduct all criminal investigations for the agency. Criminal investigations are not referred to an outside law enforcement agency for investigation.

The Auditor was provided with a blank Request for Investigation (RIF) form, which is sent to the Office of Investigations each time an allegation is received. Per an email received from the PREA Coordinator, "Requests for investigation (RFIs) are sent to [the] Investigations Manager, in the Central Office. He is the one who determines whether the case will be investigated as a criminal case, administrative, or both. If it is criminal (i.e. meets one of our state statutes for potential criminal activity), it is assigned to one of our Department criminal investigators...Each criminal case is referred to the county or city prosecuting attorney. Administrative cases are conducted by trained staff at the facility. In addition to what is included in the flow charts, we do an extensive review of each case summary report for administrative investigations. Once the admin investigator completes their report, it is submitted to the PCM to review to ensure all the elements required by the standard were covered. Once the PCM reviews it, it is also sent to me for a second-level review, also to check that all elements were covered. The case is not approved to be closed until the investigator has completed a thorough investigation and the summary report reflects all steps taken and everything required in standard 115.71. Our process ensures that each allegation received by the facility is sent to [the Department criminal investigator] and I so we are aware of every allegation. It also ensures that each investigation is completed because it has to go through us to be approved to be closed."

The Auditor was provided with flow charts detailing the offender-on-offender and staff-on-offender referral processes, detailing how reports are referred to the Office of Investigations. The Auditor was also provided with a blank Request for Investigation form, which provides a synopsis of the allegation and investigatory decisions made by the Office of Investigations.

The Auditor was also provided with the Prison Rape Elimination Act (PREA) Administrative Investigation Review form which includes a review of the promptness, thoroughness, and objectivity of the investigation report. This review is conducted by the PCM and the PREA Coordinator and is to be included with each investigation report.

The Auditor was provided with fifteen (15) randomly selected investigation reports, ensuring distribution across allegation type and finding, confirming that formal investigations were conducted for each allegation received. Additionally, while on site, a Team member reviewed three (3) criminal investigations that had been referred for prosecution, two (2) of which were still open and one (1) recently declined. No issues were noted. Also reviewed were three (3) administrative investigations, with the reviewer looking specifically at evidence handling. There were letters and video evidence that had not been placed in an evidence bag with an evidence card. These items were continuously in the control of the PCM but it is recommended that, in the future, any evidence be documented to ensure the chain of evidence is maintained.

During interviews with both facility and agency-level investigators, it is clear that the process for completing investigations that was initiated as a result of the facility's last DOJ audit is working exceptionally well. All allegations are investigated regardless of the manner in which they are reported, investigations are completed in a timely and thorough manner, and both staff and offenders expressed an increased confidence in the investigations process.

Based on the above, MWP is assessed as compliant with the requirements of this subsection

115.71 (b)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.C.6. (page 4), requires that, "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.” The same policy, section IV.K.2. and .8. (page 11) requires that, “Administrative investigations of sexual abuse or sexual harassment of an offender allegations will be conducted by trained Department employees...Administrative investigations of offender sexual abuse or sexual harassment of an offender will be conducted by Department employees who have received specialized training in conducting sexual abuse and sexual harassment investigations in a confinement setting.” This language is mirrored in the Montana Women’s Prison Operational Procedure 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

Agency policy DOC 3.1.19, *Investigations*, 12/14/2018, section IV.A.3.f. (page 3) requires that, “Investigators must...complete specialized training prior to conducting sexual assault or other specialty type investigations.”

The PREA Coordinator indicated in a memo that investigators are required to complete two National Institute of Corrections (NIC) training courses:

- PREA: Investigating Sexual Abuse in a Confinement Setting - The main purpose of this course is to assist agencies in meeting the requirements of Prison Rape Elimination Act (PREA) Section 115.34 Specialized Training for Investigators. At the end of this course, you will be able to explain the knowledge, components, and considerations that an investigator must use to perform a successful sexual abuse or sexual harassment investigation consistent with PREA standards.
- PREA: Investigating Sexual Abuse in a Confinement Setting: Advanced Investigations - The purpose of the course is to assist agencies in meeting the requirements of PREA standard 115.34 Specialized training: Investigations by providing case studies that allow investigators to apply and practice their investigative skills to conduct appropriate investigations in accordance with PREA standards. At the end of the course, learners will be able to articulate some of the unique aspects of investigating sexual abuse of inmates in confinement settings.

The agency also developed department level investigator training which was first launched in November 2017 and updated in March 2018, May 2018, June 2018, January 2019, and June 2019.

The Auditor was provided with a listing of twenty-one (21) MWP staff who are authorized to complete PREA-related investigations. The Auditor also received training rosters documenting completion of PREA Administrative Investigations for all staff identified as facility investigators.

The Auditor was also provided with the Prison Rape Elimination Act (PREA) Administrative Investigation Review form which documents a formal review to ensure the investigation was conducted by a specially trained investigator. This review is conducted by the PCM and the PREA Coordinator and is to be included with each investigation report.

The Auditor was provided with system tracking documentation detailing the investigator assigned to each of the 70 investigations conducted during the facility’s documentation period. The Auditor confirmed that each assigned investigator was either on the current investigator roster, was no longer working at the facility, or was no longer an investigator.

During interviews with both facility and agency level investigators, interviewees confirmed completion of the required specialty training and were able to articulate the standard-required elements of that training.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.71 (c)

The Auditor was provided with the Prison Rape Elimination Act (PREA) Administrative Investigation Review form which documents the review to confirm the investigator:

- Gathered and preserved direct and circumstantial evidence;
- Interviewed alleged victims, suspected perpetrators, and witnesses; and
- Review prior report and complaints of sexual abuse involving the suspected perpetrator.

This review is conducted by the PCM and the PREA Coordinator and is to be included with each investigation report.

The Auditor was provided with fifteen (15) randomly selected investigation reports, ensuring distribution across allegation type and finding. The investigation report template was revised a while ago to include a section titled, "Evidence". This section includes information (as applicable) regarding:

- Audio / video / photographic evidence;
- Other evidence to include incident statements, miscellaneous documents and offender records;
- Interviews;
- Medical and mental health records;
- Credibility assessments of victims, suspects and witnesses;
- Staff actions or failures to act; and
- Prior reports and/or complaints of sexual abuse involving the suspected perpetrator.

The investigator would use this section of the template to document actions / reviews associated with these categories.

Investigators interviewed were thoroughly versed in the investigation report template and its use. All clearly articulated the steps of the investigation process, to include, but not limited to:

- Searches of housing and property,
- Reviewing of available documentation including prior allegations, OMIS information, and reports,
- Review of surveillance footage,
- Review of any available evidence previously collected,
- Interviews of all noted participants as well as any other individual who may have information relative to the allegation / incident,
- Development of a timeline, and writing of the formal report.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.71 (d)

The Auditor was provided with the Office of Human Resources Administrative Investigation Warning form, which states, "You are instructed to answer questions truthfully and completely. Your failure to do so constitutes interference with a Department investigation and may result in disciplinary action up to and including termination."

Per an email received from the PREA Coordinator, "Requests for investigation (RFIs) are sent to [the] Investigations Manager, in the Central Office. He is the one who determines whether the case will be investigated as a criminal case, administrative, or both. If it is criminal (i.e. meets one of our state statutes for potential criminal activity), it is assigned to one of our Department criminal investigators...Each criminal case is referred to the county or city prosecuting attorney."

Based on their status as criminal investigators, individuals from the Office of Investigations are able to conduct compelled interviews via Miranda. These individuals consult with city and county prosecutors as indicated during the course of the investigation. All investigators interviewed thoroughly understood

related procedures and responsibilities and indicated that any indication of a criminal act would immediately be forwarded to the Investigations Unit. Facility investigators reported that if any indication of a crime previously unreported was noted during an administrative interview, the interview would be stopped along with the administrative investigation so as not to compromise any subsequent criminal investigation.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.71 (e)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.K.10. (page 12), requires that, "Offenders 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." This language is mirrored in the Montana Women's Prison Operational Procedure 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

The Auditor was provided with the Prison Rape Elimination Act (PREA) Administrative Investigation Review form which includes a review of the investigator's assessment of the credibility of each alleged victim, suspect and witnesses. This review is conducted by the PCM and the PREA Coordinator and to be included with each investigation report.

The Auditor was provided with fifteen (15) randomly selected investigation reports, ensuring distribution across allegation type and finding. The investigation report template was revised a while ago to include a section titled, "Evidence". This section includes information (as applicable) regarding:

- Audio / video / photographic evidence;
- Other evidence to include incident statements, miscellaneous documents and offender records;
- Interviews;
- Medical and mental health records;
- Credibility assessments of victims, suspects and witnesses;
- Staff actions or failures to act; and
- Prior reports and/or complaints of sexual abuse involving the suspected perpetrator.

The investigator would use this section of the template to document actions / reviews associated with these categories.

All investigators interviewed clearly articulated the factors they would take into consideration when assessing the credibility of a witness in an investigation, to include, review of all available documentation, consistency in testimony with the documentation, the individual's history with providing factual information previously, an assessment of personal knowledge, the feasibility of the reported actions taking place, and consistency between and across interviews. All interviewees reported that they would never determine credibility based on the status of the witness. Additionally all interviewees reported that they would never use a polygraph during a sexual assault or harassment investigations.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.71 (f)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.K.12. (page 12), requires that, "Investigative materials including, but not limited to incident reports, statements, and investigative reports will be stored in a designated investigative case file. Investigative case files must be submitted to the Investigations Manager or designee, the PREA compliance manager, and the PREA

coordinator.” This language is mirrored in the Montana Women’s Prison Operational Procedure 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

The Auditor was provided with a blank Montana Department of Corrections General Report form, which is used by the investigator to document individual steps of the investigation, to include interviews, review of evidence, video review, etc.

The Auditor was also provided with the Prison Rape Elimination Act (PREA) Administrative Investigation Review form which includes a review of the investigator’s efforts to determine whether staff actions or failures to act contributed to the abuse, as well as the thoroughness of the investigation report, including all required elements. This review is conducted by the PCM and the PREA Coordinator and to be included with each investigation report.

The Auditor was provided with fifteen (15) randomly selected investigation reports, ensuring distribution across allegation type and finding, confirming the documentation of investigations in written reports that include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings. The investigation report template was revised a while ago to include a section titled, “Evidence”. This section includes information (as applicable) regarding:

- Audio / video / photographic evidence;
- Other evidence to include incident statements, miscellaneous documents and offender records;
- Interviews;
- Medical and mental health records;
- Credibility assessments of victims, suspects and witnesses;
- Staff actions or failures to act; and
- Prior reports and/or complaints of sexual abuse involving the suspected perpetrator.

The investigator would use this section of the template to document actions / reviews associated with these categories. It was learner while on site that the report template was updated about nine (9) months ago to include this expanded information. It was also learned that once the investigator completes the report template, it is reviewed by the PCM, who conducts a review of the investigations SharePoint site to ensure all applicable information is included and addressed.

Interviewees who conducted administrative investigations were able to clearly articulate the requirements of a written investigation report based on the established agency template.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.71 (g)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.K.12. (page 12), requires that, “Investigative materials including, but not limited to incident reports, statements, and investigative reports will be stored in a designated investigative case file. Investigative case files must be submitted to the Investigations Manager or designee, the PREA compliance manager, and the PREA coordinator.” This language is mirrored in the Montana Women’s Prison Operational Procedure 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

The Auditor was provided with the Montana Department of Corrections PREA Summary Report form, Table of Contents for an investigation report, and PREA Summary Report Instructions. Per the PREA Coordinator, “the summary report is the document use to summarize a completed PREA administrative investigation, including findings. The instructions are reminders to investigators on how to appropriately complete the report.” The Table of Contents lists out everything that can / should be included in the

report (e.g., summary report, incident statements, investigative reports, interview reports, miscellaneous documents, audio/video/photographs, medical/mental health documents and final firms from the PCM).

The Auditor was also provided with the Prison Rape Elimination Act (PREA) Administrative Investigation Review form which includes documentation of the review to determine if there appears to be any criminal conduct and whether the case was referred to agency criminal investigators. This review is conducted by the PCM and the PREA Coordinator and is to be included with each investigation report.

The Auditor was provided with investigation reports that have been criminally investigated. These are all forwarded to the county prosecutor for review and possible prosecution, regardless of administrative findings. At the time of the writing of this report, one criminal investigation had recently been declined by prosecutors with three (3) additional cases pending prosecutorial decisions.

Interviewees who conducted criminal investigations were able to clearly articulate the requirements of a written investigation report based on the established agency template and the elements required for presentation of the report to prosecutors.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.71 (h)

Per an email received from the PREA Coordinator, "Requests for investigation (RFIs) are sent to [the] Investigations Manager, in the Central Office. He is the one who determines whether the case will be investigated as a criminal case, administrative, or both. If it is criminal (i.e. meets one of our state statutes for potential criminal activity), it is assigned to one of our Department criminal investigators...Each criminal case is referred to the county or city prosecuting attorney."

The Auditor was provided with investigation reports that have been criminally investigated. These are all forwarded to the county prosecutor for review and possible prosecution, regardless of administrative findings. At the time of the writing of this report, one criminal investigation had recently been declined by prosecutors with three (3) additional cases pending prosecutorial decisions.

Based on the criminal investigatory processes established with the agency, Office of Investigations conducts all criminal investigations and makes any applicable referrals for prosecution. It was noted that the prosecutor is presented with all criminal investigations, regardless of investigator findings, and must provide the agency with a prosecutorial decision based on the investigation report. It was noted that several such investigations were complete, but awaiting final prosecutorial decisions before being closed out. .

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.71 (i)

Agency policy DOC 1.1.17, Prison Rape Elimination Act of 2003 (PREA), 09/12/2017, section IV.K.13. (page 12) requires that, "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." This language is mirrored in the Montana Women's Prison Operational Procedure 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

The Auditor was provided with fifteen (15) randomly selected investigation reports, ensuring distribution across allegation type and finding. The Auditor also confirmed the availability of investigation reports

since the implementation of PREA standards, confirming compliance with policy and standard record retention schedules.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.71 (j)

Investigators at both the facility and agency level clearly understood the requirement that investigation would continue, regardless of the employment status of involved staff or incarceration of involved offenders. Several noted that the allegation was still a crime or a violation of policy and therefore must continue. One noted that the investigation may actually become easier if the individuals involved believed they were safer or the facility was no longer able to hold them accountable. Also mentioned was the ability to partner with outside agencies to take the investigation to its conclusion.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.71 (k)

Per an email received from the PREA Coordinator, all investigations are conducted internally. Criminal investigations are conducted by the Department Criminal investigators from the Office of Investigations. Administrative investigations are conducted by specially training agency staff. No outside agency conducts investigations for MDOC.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.71 (l)

Per an email received from the PREA Coordinator, all investigations are conducted internally. Criminal investigations are conducted by the Department criminal investigators from the Office of Investigations. Administrative investigations are conducted by specially training agency staff. No outside agency conducts investigations for MDOC. This was confirmed in interviews with facility and agency-level investigative staff, the PCM, and the Warden.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017
- Montana Women's Prison Operational Procedure 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019
- Agency policy DOC 3.1.19, *Investigations*, 12/14/2018
- Agency policy DOC.1.3.13, *Administrative Investigations*, 03/11/2015
- List of MWP investigators
- Rosters for PREA Administrative Investigations training
- 05/30/2019 memo from the PREA Coordinator regarding investigator training requirements
- 07/01/2019 memo from the PREA Coordinator regarding investigation-related documents
- 08/06/2019 email from the PREA Coordinator regarding the investigation process
- Blank Request for Investigation (RIF) form
- Blank Montana Department of Corrections PREA Summary Report form
- Department of Corrections PREA Summary Report Instructions
- Table of Contents for PREA investigation reports
- Blank Prison Rape Elimination Act (PREA) Administrative Investigation Review form
- Blank Office of Human Resources Administrative Investigation Warning form

- Blank Montana Department of Corrections General Report form
- Inmate on Inmate Sexual Harassment and Sexual Abuse Investigation Referral Process Flow Chart
- Staff Misconduct Investigation Referral Process Flow Chart
- Copies of selected investigation reports

Interviews conducted:

- Offenders who Reported Sexual Abuse
- Investigative Staff
- PREA Compliance Manager
- PREA Coordinator
- Warden

Standard 115.72: Evidentiary standard for administrative investigations

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

115.72 (a)

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

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

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

115.72

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.K.9. (page 12) requires that, "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." This language is mirrored in the Montana Women's Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

The Auditor was provided with the Prison Rape Elimination Act (PREA) Administrative Investigation Review form which documents a review to determine if the investigator established a preponderance of the evidence in determining whether allegations are substantiated. This review is conducted by the PCM and the PREA Coordinator and is to be included with each investigation report.

The Auditor was provided with a total of fifteen (15) investigation reports, selected randomly to ensure distribution across type of allegation and finding. The Auditor was able to confirm findings made in compliance with a preponderance of the evidence standard.

During interviews conducted with both facility and agency-level investigators, interviewees easily identified not only the level of proof required (preponderance) but clearly articulated the definition of that level of proof.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017
- Montana Women's Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019
- Blank Prison Rape Elimination Act (PREA) Administrative Investigation Review form
- Copies of selected investigation reports

Interviews conducted:

- Investigative Staff

Standard 115.73: Reporting to inmates

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

115.73 (a)

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

115.73 (b)

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

115.73 (c)

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

115.73 (d)

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

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

115.73 (e)

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

115.73 (f)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

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

115.73 (a)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.L.1. (page 12), requires that, “Following an investigation into an offender’s allegation of sexual abuse or sexual harassment in a facility, the facility will inform the offender as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded.” This language was mirrored in the Montana Women’s Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

Following the facility’s most recent Department of Justice (DOJ) PREA audit (report dated 02/03/2018), MWP established a system of offender case outcome notification that involved the provision of a written memo, which includes the following language:

[Facility name] has zero tolerance related to sexual abuse and sexual harassment in accordance with the standards set forth in the Prison Rape Elimination Act of 2003 (PREA). The elements of your allegation have been carefully examined and investigated. After investigating the complaint presented, [facility] has concluded that the allegation is [unfounded/unsubstantiated/substantiated]. Staff will continue to perform their duties related to your safety and security, while adhering to the PREA Standards.

This is a standard template that is now used across the agency. The offender is required to sign the notification, confirming receipt. The staff providing the notification also must sign the form. The written notification is generally not left with the offender but maintained in the facility's investigation file. The notification template also has a section to document if the offender to be notified has been released from the Department's custody and, therefore, no longer available for notification.

According to the Pre-Audit Questionnaire (PAQ), the facility completed 56 investigations in which case outcome notification was indicated. The PAQ also noted that notification was provided in only 37 of these investigations. In a memo from the PCM, the following explanatory information was provided:

Upon review of finding letters, I found that if an allegation of inmate on inmate sexual abuse or harassment was made anonymously, and through the investigation process we find the case to be unsubstantiated or unfounded (no clear victim) there was not a finding letter given. After clarifying the standard with the PREA Coordinator, we will go back 1 year and give finding letters in 19 cases (approximately 43 letters).

The Auditor requested and was provided with examples of case outcome notifications provided to offenders. These notifications were associated with the fifteen (15) investigations selected for review. One of the notifications included an email in which the PCM attempted to notify an offender who had been released to community supervision, with notification attempted through the offender's parole / probation officer. Notification was provided to alleged offender victims in eleven (11) of these cases. The remaining four (4) investigations were of allegations that were later determined to be consensual sexual behavior and therefore no victim was identified.

The implementation of a system in which the offender signs to verify receipt of the required notification is a best practice and the facility / agency should be commended for its implementation. The accountability inherent in the system is remarkable and eliminates much correspondence and confusion after the completion of an investigation.

During interviews, the Warden and both facility and agency-level investigators confirmed the provision of investigation outcome information to an offender at the close of the investigation. The one offender who had previously reported an allegation who still remained at the facility confirmed receipt of finding information when her investigation was concluded.

Based on the case outcome notification process in place, MWP is assessed as exceeding the requirements of this subsection.

115.73 (b)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.L.2. (page 12), requires that, "If the investigation is conducted by a LEAJ, the Department will request relevant information from the LEAJ in order to inform the offender." This language was mirrored in the Montana Women's Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

The Auditor was informed that even if a criminal investigation were to be conducted by external law enforcement agencies, an internal administrative investigation is conducted. Additionally, internal HQ investigators now conduct all criminal investigations and provide results to the facility Warden, who ensures the provision of outcome notification to all applicable offenders.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.73 (c)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.L.3. (page 12), requires that, "Following an offender's allegation that an employee or service provider has committed sexual abuse against the offender, the facility will inform the offender, unless the allegation is unfounded, whenever: (a) The employee or service provider is no longer posted within the offender's unit; (b) The employee or services provider is no longer employed at the facility; (c) The department 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." This language was mirrored in the Montana Women's Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

The Auditor was provided with an example of on-going notification provided to an offender, detailing the elements included with this subsection.

The allegation reported by the offender who had previously reported and still remained at the facility is not applicable to this subsection based on the finding and type of allegation investigated. As such, related interview questions are not applicable to this subsection.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.73 (d)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.L.4. (page 12), requires that, "Following an offender's allegation that he or she has been sexually abused by another offender, the facility will 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." This language was mirrored in the Montana Women's Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

During the audit documentation period, there were no instances in which ongoing notification was required regarding the indictment and/or conviction of an offender perpetrator of sexual abuse. As a result, there is no secondary documentation available for review.

The allegation reported by the offender who had previously reported and still remained at the facility is not applicable to this subsection based on the finding and type of allegation investigated. As such, related interview questions are not applicable to this subsection.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.73 (e)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.L.5. (page 12), requires that, "All such notifications or attempted notifications will be documented." This language was mirrored in the Montana Women's Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

Following the facility's most recent Department of Justice (DOJ) PREA audit (report dated 02/03/2018), MWP established a system of offender case outcome notification that involved the provision of a written memo, which includes the following language:

[Facility name] has zero tolerance related to sexual abuse and sexual harassment in accordance with the standards set forth in the Prison Rape Elimination Act of 2003 (PREA). The elements of

your allegation have been carefully examined and investigated. After investigating the complaint presented, [facility] has concluded that the allegation is [unfounded/unsubstantiated/substantiated]. Staff will continue to perform their duties related to your safety and security, while adhering to the PREA Standards.

This is a standard template that is now used across the agency. The offender is required to sign the notification, confirming receipt. The staff providing the notification also must sign the form. The written notification is generally not left with the offender but maintained in the facility's investigation file. The notification template also has a section to document if the offender to be notified has been released from the Department's custody and, therefore, no longer available for notification.

The Auditor requested and was provided with examples of case outcome notifications provided to offenders. The Auditor was also provided with a template letter to be used in the event a notification outlined in subsections (d) and (e) of this standard is indicated. The Auditor was then provided with an example of such a notification delivered to an offender victim.

The implementation of a system in which the offender signs to verify receipt of the required notification is a best practice and the facility / agency should be commended for its implementation. The accountability inherent in the system is remarkable and eliminates much correspondence and confusion after the completion of an investigation.

Based on the case outcome notification process in place, MWP is assessed as exceeding the requirements of this subsection.

115.73 (f)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.L.6. (page 13), requires that, "A facility's obligation to report will terminate if the offender is released from the department's custody." This language was mirrored in the Montana Women's Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017
- Montana Women's Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019
- Template for the on-going notification of offenders
- Template for the offender notification of case outcome
- Example of ongoing notification provided to an offender
- Selected examples of case outcome notification provided to offenders

Interviews conducted:

- Offenders who Reported Sexual Abuse
- Investigative Staff
- Warden

DISCIPLINE

Standard 115.76: Disciplinary sanctions for staff

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

115.76 (a)

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

115.76 (b)

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

115.76 (c)

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

115.76 (d)

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

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's

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

115.76 (a)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.H.12. (page 9) requires that, “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.” The same policy, section IV.O.1. (page 14) requires that, “Employees will be subject to disciplinary sanctions up to and including termination for violating agency sexual abuse or sexual harassment policies.” This language is mirrored in the Montana Women’s Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

The Auditor located on the agency’s public website the Collective Bargaining Agreement between Montana Federation of Women’s Prison Employees Local #4699, MEA-MFT, AFL-CIO and Montana Department of Corrections Women’s Prison, 2017 – 2019. This agreement was made and entered into on 11/22/2017. Article 3, Section 4 (page 5) notes, “The Employer may discipline or discharge an employee with permanent status only for just cause. The Employer shall furnish an employee subject to discharge or suspension with a written statement of the grounds and specific reason(s) for such actions and shall, in addition, notify the Federation of the removal of an employee for cause.”

The Pre-Audit Questionnaire (PAQ) indicates that during the audit documentation period, one (1) substantiated investigation resulted in employee termination. The Auditor was provided with related documentation. The PAQ also indicated that no staff were disciplined for policy violations that did not result in termination. Investigation documentation indicated that there were two (2) additional substantiated staff investigation (one harassment and one voyeurism). The two involved employees were terminated for other reasons prior to the conclusion of the investigation. As a result, no additional discipline-related documentation was available for review.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.76 (b)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.H.12. (page 9) requires that, “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.” The same policy, section IV.O.1. (page 14) requires that, “Termination is the presumptive disciplinary sanction for employees who have engaged in sexual abuse.” This language is mirrored in the Montana Women’s Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019

The Auditor received documentation of discipline imposed regarding staff misconduct, to include termination and loss of Public Safety Officer Standards and Training Council’s (POST) certification.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.76 (c)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.H.12. (page 9) requires that, “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.” The same policy, section IV.O.2. (page 14), requires that, “Disciplinary

sanctions for violations of Department policies 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 offenders by other employees with similar histories." This language is mirrored in the Montana Women's Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

The PAQ indicates that no staff were disciplined for policy violations that did not result in termination. Investigation documentation indicated that there were two (2) additional substantiated staff investigation (one harassment and one voyeurism), in which the involved employees were terminated for other reasons prior to the conclusion of the investigation. As a result, no additional discipline-related documentation was available for review.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.76 (d)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.O.3. (page 14), requires that, "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." This language is mirrored in the Montana Women's Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

The PAQ indicates that during the audit documentation period, one (1) substantiated investigation resulted in employee termination. The individual also lost their Public Safety Officer Standards and Training Council's (POST) certification as a result of the discipline.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Collective Bargaining Agreement between Montana Federation of Women's Prison Employees Local #4699, MEA-MFT, AFL-CIO and Montana Department of Corrections Women's Prison, 2017 – 2019
- Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017
- Montana Women's Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019
- Documentation of discipline imposed regarding staff misconduct

Interviews conducted:

- None are required by DOJ template or compliance tool

Standard 115.77: Corrective action for contractors and volunteers

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

115.77 (a)

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

115.77 (b)

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

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

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

115.77 (a)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.H.12. (page 9) requires that, "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." The same policy, section IV.O.4. (page 14) requires that, "Service providers or volunteers who engage in sexual abuse will be prohibited from contact with offenders and will be reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies." This language is mirrored in the Montana Women's Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

During the audit documentation period, there were no substantiated allegations that involved contractors or volunteers. As a result, there is no secondary documentation available for review.

It is recommended that the language contained in the policy section IV.H.12. be amended on the policy's next revision as it notes that service providers (contractors) can be dismissed or disciplined. The agency does not have the authority to dismiss or discipline a contractor but can prohibit facility access and contract with offenders as well as terminate applicable contracts.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.77 (b)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.O.4. (page 14), requires that, "Service providers or volunteers who engage in sexual abuse will be prohibited from contact with offenders 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 offenders, in the case of any other violation of Department sexual abuse or sexual harassment policies by a service provider." This language is mirrored in the Montana Women's Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

During the audit documentation period, there were no substantiated allegations that involved contractors or volunteers. As a result, there is no secondary documentation available for review.

During an on-site interview, the Warden reported that violations of PREA policies by volunteers would result in facility restriction. She added that with contractors, she would immediately restrict facility access and all contracts now include language that the contract can be terminated with 30-days' notice for cause, adding that she would pursue such termination.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017
- Montana Women's Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019

Interviews conducted:

- Warden

Standard 115.78: Disciplinary sanctions for inmates

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

115.78 (a)

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

115.78 (b)

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

115.78 (c)

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

115.78 (d)

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

115.78 (e)

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

115.78 (f)

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

115.78 (g)

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

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

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

115.78 (a)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.O.5. (page 14), requires that, "Offenders are subject to disciplinary sanctions pursuant to a formal disciplinary process following an administrative finding that the offender engaged in offender-on-offender sexual abuse or following a criminal finding of guilt for offender-on-offender sexual abuse." This language is mirrored in the Montana Women's Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

The Auditor requested documentation of offender disciplinary hearings for four (4) of the five (5) substantiated offender-on-offender allegations during the facility's audit documentation period. Documentation was received related to three (3) investigations. It is noted that the fourth offender did not receive discipline based on level of culpability per the investigation report, which the Auditor reviewed.

During an interview conducted while on-site, the Offender Disciplinary Hearing Officer confirmed that major infractions result in formal due process hearings that are directed by a procedure manual, sanctioning grid, and agency policy. These are to be completed within 72 hours of the infraction.

It is noted that offenders may be infraacted for a PREA-related violation prior to the completion of a criminal investigation. If the criminal investigation clearly supports the conclusion that the behavior occurred, the offender may be infraacted while the agency is waiting for the outcome of the prosecutorial referral. In such cases, the criminal investigation is complete and findings noted; the agency is just waiting for decisions regarding prosecution.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.78 (b)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.O.6. (page 14), requires that, "Sanctions will be commensurate with the nature and circumstances of the abuse committed, the offender's disciplinary history, and the sanctions imposed for comparable offenses by other offenders with similar histories." This language is mirrored in the Montana Women's Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

Agency policy DOC 3.4.1, *Offender Disciplinary System*, 09/09/2019, details offender disciplinary processes, to include general requirements, rules of conduct, disciplinary reports, pre-hearing action, disciplinary hearing scheduling, conduct of the hearing, hearing decisions, administrative review, and appeals. This is further expounded on in the Montana Women's Prison Operational Procedure MWP 3.4.1, *Adult Institutional Discipline*, 03/19/2015. These ensure a fair and consistent disciplinary process for all offenders, compliant with standard requirements.

The Auditor requested documentation of offender disciplinary hearings for four (4) of the five (5) substantiated offender-on-offender allegations during the facility's audit documentation period. Documentation was received related to three (3) investigations, confirming that sanctions were 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. It is noted that the fourth offender did not receive discipline based on level of culpability per the investigation report, which the Auditor reviewed.

During an interview conducted while on site, the Offender Disciplinary Hearing Officer confirmed that sanctions are based on a formal sanctioning grid that take into account the seriousness of the infraction. Sanctions are also determined by the number of prior violations, implementing progressive discipline principles. This was also confirmed in an interview with the Warden.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.78 (c)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.O.7. (page 15), requires that, "The disciplinary process will consider whether an offender's mental disabilities or mental illness contributed to his or her behavior when determining what type of sanction, if any, should be imposed." This language is mirrored in the Montana Women's Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

The Offender Disciplinary Hearing Officer reported that he contacts Mental Health Providers to determine if the offender knows what is happening with regard to the incident, infraction, and hearing. He added that the offender's mental health can impact sanctioning, from lessening the sanction up to dismissal. This was also confirmed in an interview with the Warden.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.78 (d)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.O.8. (page 14), requires that, "If the facility offers therapy, counseling, or other interventions designed to address and correct underlying reasons or motivations for the abuse, the facility will consider whether to require the offender to participate in such interventions as a condition of access to programming or other benefits."

The Montana Women's Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019, section III.O.8. (page 15), requires that, "MWP's Mental Health staff will offer interventions designed to address and correct underlying reasons or motivations for the abuse. MWP may consider, on a case by case basis, whether to require the inmate to participate in such interventions as a condition of access to programming or other benefits."

The Offender Disciplinary Hearing Officer reported that he does not sanction offenders to programming, but can refer them to Mental Health Providers for evaluation and any indicated follow-up treatment. Interviews with Mental Health Providers confirmed the availability contractor-provided sex offender treatment programming as indicated for substantiated abusers. They also confirmed the availability of related programming, such as anger management, to address underlying issues. Interviewees added that offenders have the right to refuse such programming, that mental health services would continue to be provided and offenders who not be punished for refusing participation.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.78 (e)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.O.9. (page 15), requires that, "The agency may discipline an offender for sexual contact with staff only upon a finding that the staff member did not consent to such contact." This language is mirrored in the Montana Women's Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

The Auditor confirmed with the PCM that there have been no offenders disciplined for sexual contact with staff where the staff member didn't consent to the contact.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.78 (f)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.F.5. (page 8) requires that, "Reports made in bad faith, which include deliberately malicious reports by offenders of other parties, will result in disciplinary action and/or criminal charges." The same policy, section IV.O.10. (page 15), requires that, "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 substantiated the allegation." This language is mirrored in the Montana Women's Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

The Offender Disciplinary Hearing Officer reported that offenders would only be infraacted for false reporting when the allegation was proven to be false and not reported by the offender in good faith. He added that the determination of good faith reporting would be based on the investigation.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.78 (g)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.O.11. (page 15), requires that, "An offender 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 no coerced." This language is mirrored in the Montana Women's Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017

- Montana Women's Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019
- Agency policy DOC 3.4.1, *Offender Disciplinary System*, 09/09/2019
- Montana Women's Prison Operational Procedure MWP 3.4.1, *Adult Institutional Discipline*, 03/19/2015
- Examples of offender disciplinary records

Interviews conducted:

- Medical and Mental Health Staff
- Offender Disciplinary Hearing Officer
- Warden

MEDICAL AND MENTAL CARE

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

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

115.81 (a)

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

115.81 (b)

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

115.81 (c)

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

115.81 (d)

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

115.81 (e)

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

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

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

115.81 (a) and (c)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.E.7. (page 6 – 7) requires that, “When the risk assessment indicates an offender has experienced prior sexual victimization or previously perpetrated sexual abuse, whether it occurred in the community or in an institutional setting, the facility will ensure the offender is offered a follow-up meeting with a qualified mental health professional within 14 days of the assessment.” This language is mirrored in the Montana Women’s Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

The risk assessment tool used by the agency indicates that if the offender scores “yes” to identified questions, the offender must be offered a referral to the Mental Health Services Department. The offender must initial the assessment indicating acceptance or declination of the referral. If the offender accepts the referral, the mental health staff who meets with the offender must sign the form, recording the date the staff member met with the offender.

The Auditor received a listing of the 188 offenders received by the facility during the 12-month documentation period. It is noted that the spreadsheet details risk assessment and mental health referral information but doesn’t specifically call out the responses to the identified questions regarding prior victimization. As a result, the Auditor reviewed those 76 offenders who were assessed during an initial assessment as either a known victim or potential victim. The Auditor randomly selected 12 offenders, one per month and ensuring an equal distribution of offenders who accepted and declined the follow up meeting, requesting to review documentation of the follow up meeting with a mental health professional or the offender’s declination of services. The Auditor confirmed that all meetings occurred within the fourteen (14) days established by the standard.

The provision of the opportunity for a follow up meeting with a mental health provider was confirmed in interviews with offenders who reported prior abuse during a risk assessment as well as those individuals responsible for the completion of these assessments.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.81 (b)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, 09/12/2017, section IV.E.7. (page 6 – 7) requires that, “When the risk assessment indicates an offender has experienced prior sexual victimization or previously perpetrated sexual abuse, whether it occurred in the community or in an institutional setting, the facility will ensure the offender is offered a follow-up meeting with a qualified mental health professional within 14 days of the assessment.” This language is mirrored in the Montana Women’s Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

The risk assessment tool used by the agency indicates that if the offender scores “yes” to identified questions, the offender must be offered a referral to the Mental Health Services Department. The offender must initial the assessment indicating accepting or declining the referral. If the offender accepts the referral, the mental health staff who meets with the offender must sign the form, recording the date the staff member met with the offender.

The Auditor received a listing of the 188 offenders received by the facility during the 12-month documentation period. It is noted that the spreadsheet details risk assessment and mental health referral information but doesn’t specifically call out the responses to the identified questions regarding prior perpetration. As a result, the Auditor reviewed those 16 offenders who were assessed during an initial assessment as a potential perpetrator. The Auditor randomly selected 4 offenders, distributed throughout the documentation period and ensuring an equal distribution of offenders who accepted and declined the follow up meeting, requesting to review documentation of the follow up meeting with a mental health professional or the offender’s declination of services. The Auditor confirmed that all meetings occurred within the fourteen (14) days established by the standard.

The provision of the opportunity for a follow up meeting with a mental health provider for offenders who had previously perpetrated sexual abuse was confirmed in interviews with those individuals responsible for the completion of those assessments.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.81 (d)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.H.6. (page 9), requires that, “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.” This language is mirrored in the Montana Women’s Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

The Auditor was provided with examples of mental health general reports and individual contact notes documenting Mental Health Providers’ interactions with an offenders and the sharing of applicable information as needed to inform treatment plans and security / management decisions.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.81 (e)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.H.7. (page 9), requires that, “Unless otherwise precluded by law, medical and mental health practitioners will report sexual abuse according to facility procedures and will inform offenders of their duty to report, and the limitations of confidentiality, at the initiation of services.” This language is mirrored in the Montana

Women's Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

The Auditor was provided with the Montana Department of Corrections Clinical Services Division Disclosure and Consent for Services – Medical, Dental and Mental Health Services – Montana Women's Prison form, which offenders are required to sign prior to the provision of services. This form indicates, "Clinical Services Division staff are obligated to break confidentiality and report any threat of harm to yourself or others, child abuse, elder abuse, sexual abuse or threat of escape."

The Auditor was provided with a copy of the Disclosure and Consent for Services form from the Clinical Services Division which indicates that staff are obligated to break confidentiality and report any sexual abuse. Offenders are required to sign this form prior to the provision of services. The form at first appears contradictory to the standard requirement of informing the offender prior to the onset of services of the requirement to report any abuse that occurred in an incarcerated setting but obtain consent before disclosing any abuse that did not occur in an institutional setting; instead requiring that health services staff will disclose any abuse, regardless of setting. The following clarification was received from the PREA Coordinator, "The language of the form is broad to cover all possibilities of what is required to be reported by Montana law, including those that do not require consent prior to disclosure such as information involving abuse of a minor or vulnerable adult. You'll notice that the language also does not specify who that information will be reported to. This language is also broad as it may have to be reported to law enforcement or DPHHS but it also may just have to be reported within the facility in order to do follow-up assessments, treatment, etc."

All medical and mental health providers expressed a thorough understanding of the requirement to obtain consent prior to release of information where applicable. It is noted that MWP does not house offenders under the age of 18 and, as such, there is no informed consent process specific to offenders under the age of 18

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017
- Montana Women's Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019
- Examples of initial risk assessment forms including documentation related to follow up meeting with mental health
- Examples of General Report and Individual Contact Notes
- Blank Montana Department of Corrections Clinical Services Division Disclosure and Consent for Services – Medical, Dental and Mental Health Services – Montana Women's Prison form

Interviews conducted:

- Offenders who Disclosed Sexual Victimization at Risk Assessment
- Medical and Mental Health Staff
- Staff Responsible for Risk Screening

Standard 115.82: Access to emergency medical and mental health services

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

115.82 (a)

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

115.82 (b)

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

115.82 (c)

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

115.82 (d)

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

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

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

115.82 (a)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.J.3. (page 10 – 11) requires that, “Department 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 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: 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 upon request from law enforcement, transport the victim to a community medical facility for evidence collection.” This language is mirrored in the Montana Women’s Prison Operational Memorandum MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

Agency policy DOC 4.5.3, *Health Care Authority*, 05/15/2017, section I., IV.A.3. and IV.C.1. require the following, “The Department of Corrections will ensure clinical decisions and actions regarding the health care provided to offenders to meet their serious medical and mental health needs are solely the responsibility of the qualified health care professional...The Department will not place restrictions on any physician, dentist, or psychiatrist with respect to the practice of their medical specialties...Qualified health care professionals will have complete responsibility and authority for offender health care and treatment.”

During the audit documentation period, no allegations were reported that indicated the need for emergency medical treatment and/or crisis intervention services. As such, there is no secondary documentation available for review.

Interviews with medical and mental health staff confirmed the provision of timely and unimpeded access to emergency medical treatment and crisis intervention services as needed by offender victims of abuse. They also confirmed the provision of services, the nature and scope of which are determined by the providers professional judgement, adding the ability to provide personal input each time.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.82 (b)

The Auditor was informed by the MWP Medical Supervisor that “Medical Staff is on site 12 hours per day 7 days a week. When staff is not on site the CO’s can call with any questions or concerns. If they feel the inmates need immediate medical care they are transported to an ER. Mental health is on site 10 hours per day Monday through Friday. They also have a therapist on call for any questions. In case of emergency these inmates are transported to the Billings Clinic Psych Services.” The Supervisor also noted that she and the Mental Health Supervisor have received calls from Lieutenants with question and concerns about the health-related care of offenders. These individuals will also come to the facility as needed.

It is noted that during the audit documentation period, no such emergent calls or visits were indicated that were related to PREA allegations. However, interviews conducted confirmed knowledge of the procedures to obtain health care services if needed.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.82 (c)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.J.2. (page 10), requires that, "The administrator, or designee, will develop procedures for providing services to offenders 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." This language is mirrored in the Montana Women's Prison Operational Memorandum MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

The same policy, section IV.J.3. (page 10 – 11) requires that, "Department 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 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: 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 upon request from law enforcement, transport the victim to a community medical facility for evidence collection." This language is mirrored in the Montana Women's Prison Operational Memorandum MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

During the audit documentation period, no allegations were reported that indicated the need for emergency medical treatment and/or crisis intervention services. As such, there is no secondary documentation available for review or offenders applicable for interview. Medical staff confirmed the existence of protocols appropriate for the provision of care defined by the standard.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.82 (d)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.J.2. (page 10), requires that, "The administrator, or designee, will develop procedures for providing services to offenders 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." This language is mirrored in the Montana Women's Prison Operational Memorandum MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

The same policy, section IV.J.3. (page 10 – 11) requires that, “Department 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 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: 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 upon request from law enforcement, transport the victim to a community medical facility for evidence collection.”

Health Services staff interviews confirmed the provision of medical and mental health care to offenders at no cost to those offenders regardless of the information provided by the offender.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017
- Montana Women’s Prison Operational Memorandum MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019
- Agency policy DOC 4.5.3, *Health Care Authority*, 05/15/2017
- Email from Medical Supervisor through the PCM regarding after-hours care

Interviews conducted:

- Offenders who Reported Sexual Abuse
- Medical and Mental Health Staff
- Security and Non-Security Staff First Responders

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

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

115.83 (a)

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

115.83 (b)

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

115.83 (c)

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

115.83 (d)

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

115.83 (e)

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

115.83 (f)

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

115.83 (g)

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

115.83 (h)

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

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

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

115.83 (a)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.J.3. and .4. (page 10 – 11) requires that, "Department 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 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: 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 upon request from law enforcement, transport the victim to a community medical facility for evidence collection. Qualified mental health professionals will provide crisis intervention and ongoing services for victims of sexual abuse and sexual harassment and for other offenders affected." This language is mirrored in the Montana Women's Prison Operational Procedure 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

A review of the allegations received indicated that medical care was not required or indicated regarding an allegation received during the facility's audit documentation period. This was confirmed by the PCM. The Auditor was provided with sample documentation confirming the referral to and provision of mental

health care as determined by a mental health provider following an offender's allegation of sexual abuse or harassment.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.83 (b)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.J.2. (page 10), requires that, "The administrator, or designee, will develop procedures for providing services to offenders 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." This language is mirrored in the Montana Women's Prison Operational Procedure 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

The same policy, section IV.J.3. (page 10 – 11) requires that, "Department 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 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: 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 upon request from law enforcement, transport the victim to a community medical facility for evidence collection." This language is mirrored in the Montana Women's Prison Operational Procedure 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

Agency policy DOC 4.5.22, *Offender Health Care Continuity*, 08/25/2017, section I. and IV.C. (page 1 - 2), requires that, "The Department of Corrections facility health unit will facilitate offender health care continuity from admission to discharge, including referral to community providers when indicated...Health care staff will make follow-up arrangements to provide referrals to community providers for offenders who will be released from a Department facility with critical medical or mental health needs."

A review of the allegations received indicated that medical care was not required or indicated regarding an allegation received during the facility's audit documentation period. This was confirmed by the PCM. The Auditor was provided with sample documentation confirming the referral to and provision of mental health care as determined by a mental health provider following an offender's allegation of sexual abuse or harassment.

Interviews with health care staff confirmed the provision of appropriate services for any offender reporting sexual abuse victimization. These included assessments, evaluations, and follow up care as indicated.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.83 (c)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.J.1. (page 10) requires that, "Medical and mental health services for victims will be consistent with the community level of care." This language is mirrored in the Montana Women's Prison Operational Procedure 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

A review of the allegations received indicated that medical care was not required or indicated regarding an allegation received during the facility's audit documentation period. This was confirmed by the PCM. The Auditor was provided with sample documentation confirming the referral to and provision of mental health care as determined by a mental health provider following an offender's allegation of sexual abuse or harassment. The provision of services that were commensurate with the community level of care was confirmed in health care staff interviews conducted while on-site.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.83 (d)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.J.2. (page 10), requires that, "The administrator, or designee, will develop procedures for providing services to offenders 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." This language is mirrored in the Montana Women's Prison Operational Procedure 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

During the audit documentation period, no allegations were reported that indicated sexually abusive vaginal penetration while incarcerated. As such, there is no secondary documentation available for review. However, the provision of same when medically indicated was confirmed during on-site interviews with health care staff.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.83 (e)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.J.2. (page 10), requires that, "The administrator, or designee, will develop procedures for providing services to offenders 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." This language is mirrored in the Montana Women's Prison Operational Procedure 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

During the audit documentation period, no allegations were reported that indicated sexually abusive vaginal penetration while incarcerated. As such, there is no secondary documentation available for review. However, the provision of same when medically indicated was confirmed during on-site interviews with health care staff.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.83 (f)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.J.2. (page 10), requires that, "The administrator, or designee, will develop procedures for providing services to offenders 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." This language is mirrored in the Montana Women's Prison Operational Procedure 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

During the audit documentation period, no allegations were reported that indicated tests for sexually transmitted infections. As such, there is no secondary documentation available for review. However, the provision of same when medically indicated was confirmed during on-site interviews with health care staff. The offender who reported an allegation indicated that she had not been provided testing for sexually transmitted infections, but these were not indicated based on the allegation reported.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.83 (g)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.J.2. (page 10), requires that, "The administrator, or designee, will develop procedures for providing services to offenders 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." This language is mirrored in the Montana Women's Prison Operational Procedure 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

Agency policy prohibits the charging of offenders for medical and mental health services in total. It does not specifically address whether this is independent of the victim naming the abuser or cooperating with any investigation arising out of the incident. It is recommended that this language be added to the policy on its next revision.

Health Services staff interviews confirmed the provision of medical and mental health care to offenders at no cost to those offenders regardless of the information provided by the offender.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.83 (h)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.J.5. (page 11) requires that, "Facilities will attempt to conduct a mental health evaluation of all known offender-on-offender abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate by qualified mental health professionals." This language is mirrored in the Montana Women's Prison Operational Procedure 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

During the audit documentation period, there were no substantiated investigations of offender-on-offender sexual abuse or information regarding a substantiated allegation received from another jurisdiction. As a result, there is no secondary documentation available for review.

The completion of an evaluation for any substantiated abuser was confirmed in interviews with mental health providers while on-site.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017
- Montana Women's Prison Operational Procedure 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019
- Agency policy DOC 4.5.22, *Offender Health Care Continuity*, 08/25/2017
- Documentation confirming the provision of mental health care to alleged victims

Interviews conducted:

- Offenders who Reported Sexual Abuse
- Medical and Mental Health Staff

DATA COLLECTION AND REVIEW

Standard 115.86: Sexual abuse incident reviews

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

115.86 (a)

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

115.86 (b)

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

115.86 (c)

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

115.86 (d)

- Does the review team: Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse? Yes No
- Does the review team: Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; gang affiliation; or other group dynamics at the facility? Yes No
- Does the review team: Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse? Yes No
- Does the review team: Assess the adequacy of staffing levels in that area during different shifts? Yes No
- Does the review team: Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff? Yes No
- Does the review team: Prepare a report of its findings, including but not necessarily limited to determinations made pursuant to §§ 115.86(d)(1) - (d)(5), and any recommendations for improvement and submit such report to the facility head and PREA compliance manager? Yes No

115.86 (e)

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

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

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

115.86 (a)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.M.1. (page 13), requires that, "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." This language is mirrored in the Montana Women's Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

The Auditor requested and was provided with examples of incident reviews conducted in response to applicable investigations selected randomly by the Auditor, ensuring distribution across the documentation period via the selection of every fifth case on the list. The Auditor was provided with an additional review report in response to questions regarding recommendations and a review included in the initial documentation received from the PCM, for a total of seven (7) incident review reports examined. The documentation confirmed that these incident reviews are occurring following a finding of substantiated or unsubstantiated investigations of sexual abuse. Initially, the facility was not including investigations of voyeurism in the applicable cases submitted for incident review. Following clarification from the PREA Resource Center that such cases are included in the definition of sexual abuse, the facility adjusted procedures to ensure future inclusion.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.86 (b)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.M.1. (page 13), requires that, "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 thirty (30) days of the conclusion of the investigation." This language is mirrored in the Montana Women's Prison Operational

Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019. The Operational Procedures adds that the PCM is responsible for scheduling all incident reviews.

The Auditor requested and was provided with examples of seven (7) incident reviews conducted in response to applicable investigations [see 115.86 (a) for selection information]. The Auditor confirmed completion of the incident review within the required 30 days in five (5) of the seven (7) cases. One of the reviews was conducted thirty-seven (37) days after the conclusion of the investigation; the other was conducted ninety-four (94) days after the conclusion of the investigation. While on site, the Auditor was informed that prior to October or November 2018, the incident review committee had not been reviewing unsubstantiated sexual abuse cases, but had been reviewing substantiated sexual harassment cases. When the error was discovered, the review committee completed the incident review on the two applicable cases, which resulted in the reviews being completed beyond the 30-day timeframe established in the standard. As the facility corrected the error and provided documentation of the correction in practice, along with documentation of incident reviews conducted within established timeframes, MWP is assessed as compliant with the requirements of this subsection.

115.86 (c)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.M.2. (page 13), requires that, "The review team will include upper-management from the facility, the facility's PREA compliance manager, line supervisors, investigators, qualified medical or mental health professional, and other employees with direct involvement."

The Montana Women's Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019, section III.M.2. (page 13), requires that, "The review team will include the Warden, Associate Wardens, Medical Supervisor or designee, Mental Health Supervisor or designee, Disciplinary Hearings Officer, PREA Compliance Manager and other employees with direct involvement."

The Auditor was provided with examples of incident reviews conducted in response to applicable investigations, confirming participation by the Warden, Associate Warden of Security, Associate Warden of Programming, the Disciplinary Hearing Officer, the Medical Supervisor, representation from Mental Health, and the PCM. The Auditor was informed that additional input would be received from other stakeholders as applicable.

Per discussion while on site, the Auditor was informed that investigators are often not on shift when the incident review committee meets, however, the committee has the investigation report to provide input from the investigator and can seek out clarification and/or additional information as needed. The facility recently hired a fulltime PREA investigator who has been added to the committee and will be a regular member, providing investigator input. Supervisor input is obtained from participating committee members and sought out from additional supervisors as needed on a case-by-case basis.

During an on-site interview, the Warden confirmed the existence of a formal incident review process and related committee, also confirming participation by standard-identified participants.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.86 (d)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.M.3. (page 13), requires that, "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 facility administrator, the Department PREA coordinator and facility PREA compliance manager.” This language is mirrored in the Montana Women’s Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

The facility has developed a template incident review form to ensure all standard-required elements are included in each review. The Auditor requested and was provided with examples of incident reviews conducted in response to applicable investigations, confirming review of all standard-required elements.

On-site interviews conducted with incident review team members, the PCM, and the Warden confirmed a knowledge of the policy-based process. All were able to articulate the elements reviewed to ensure a thorough analysis of all causal factors related to an incident along with a thorough discussion of steps that could be taken, to include but not limited to staffing additions or re-deployments, physical plant modifications, training, and monitoring systems expansions or upgrades to reduce the likelihood of future occurrences.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.86 (e)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.M.4. (page 13), requires that, “The facility will implement the recommendations for improvement or document its reasons for not doing so.” This language is mirrored in the Montana Women’s Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

The Auditor received examples of MWP incident reviews. The reviews included information regarding what final recommendations for improvement were made by the review team and whether the recommendations were implemented. The review also included a section for information as to why any recommendations were not implemented. Per information received from the PCM, there was one (1) incident review in which the recommendations of the review committee were not implemented. A recommendation for an additional camera was not fiscally possible and therefore not pursued. However, the incident review form did not document final recommendations, recommendations that were implemented, or reasoning for the recommendations that were not implemented. One of the remaining incident review reports reviewed by the Auditor indicated there were no recommendations being made; another review report included recommendations but did not indicate whether the recommendation was implemented. The remaining five (5) did not have the section regarding recommendations and subsequent actions completed, so the Auditor was not sure if any recommendations were being made. Per discussion while on site, the Auditor was informed that early during the documentation period, recommendations had been included in the sections previous in the incident review report and were then not summarized in the recommendation section. This was discovered by the PREA Coordinator and the process was revised, which was confirmed by the Auditor.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017

- Montana Women's Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019
- Template Sexual Abuse Incident Review form
- Examples of sexual abuse incident reviews

Interviews conducted:

- Incident Review Team Members
- PREA Compliance Manager
- Warden

Standard 115.87: Data collection

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

115.87 (a)

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

115.87 (b)

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

115.87 (c)

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

115.87 (d)

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

115.87 (e)

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

115.87 (f)

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

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

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

115.87 (a) and (c)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.N.2. and 3. (page 13), requires that, "The Department will collect accurate, uniform data for every allegation of sexual abuse at facilities and programs under its direct control using a standardized instrument and definitions set forth in this policy. 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." Standardized definitions related to PREA are also included in this policy. This language is mirrored in the Montana Women's Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019. This procedure, section III.N.6. (page 14) adds that, "MWP's PREA compliance manager will maintain records of all allegations, investigations, Incident Reviews, and report such information to the PREA Coordinator."

Per a memo received from the PREA Coordinator, "The Department has established a SharePoint site for allegation data collection. SharePoint is a web-based program that all PREA Compliance Managers, the PREA Coordinator, and investigations staff have access to. Compliance Managers will enter all allegations in SharePoint and can document all information needed for the annual SSV forms as well as track the investigation process, retaliation monitoring information, medical/mental health referrals, investigation outcomes, and incident reviews. Because the PREA Coordinator and investigation staff have access to the site, they can review all allegations. This provides Department level oversight to ensure proper investigations, track responses to allegations, and provide expertise into matters regarding sexual abuse. All PCMs were trained to use SharePoint on 8/30/17 and the program was active 9/15/17."

While on-site, the PREA Coordinator and PCM demonstrated the components of the SharePoint system, confirming the inclusion of elements required by this standard.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.87 (b)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.N.5. (page 14), requires that, "The Department will aggregate the incident-based sexual abuse data at least annually. The Department will maintain, review, and collect data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews." This language is mirrored in the Montana Women's Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

The Auditor was provided with Survey of Sexual Victimization summary and incident-specific forms for 2017 for both adult and juvenile facilities. This data is aggregated annually and submitted to the Department of Justice (DOJ) in response to their request. It is noted that the request for 2018 data has not yet been received from DOJ.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.87 (d)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.N.5. (page 14), requires that, “The Department will aggregate the incident-based sexual abuse data at least annually. The Department will maintain, review, and collect data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews.” This language is mirrored in the Montana Women’s Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

Per a memo received from the PREA Coordinator, “The Department has established a SharePoint site for allegation data collection. Compliance Managers will enter all allegations in SharePoint and can document all information needed for the annual SSV forms as well as track the investigation process, retaliation monitoring information, medical/mental health referrals, investigation outcomes, and incident reviews.” While on-site, the PREA Coordinator and PCM demonstrated the components of the SharePoint system, confirming the inclusion of elements required by this standard.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.87 (e)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.N.7. (page 14), requires that, “The Department will make all aggregated sexual abuse data, from facilities under its direct control and private facilities with which it contracts, available to the public at least annually through the Department website. All personal identifiers will be removed from this data prior to making it public. The Department will maintain sexual abuse data for at least 10 years after the date of its initial collection.” This language is mirrored in the Montana Women’s Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019, adding that aggregated data will be provided to the PREA Coordinator.

The 2017 and 2018 annual PREA reports posted to the agency’s public website (<https://cor.mt.gov/PREA>) designates the following contracted facilities:

- Cascade County Regional Prison
- Crossroads Correctional Center
- Dawson County Correctional Facility
- Five County Detention and Youth Rehabilitation Center
- Missoula Assessment and Sanction Center

This report also includes a detailed reporting of all allegation information for these facilities.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.87 (f)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.N.6. (page 14), requires that, “Each 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.”

The Auditor was provided with Survey of Sexual Victimization summary and incident-specific forms for 2017 for both adult and juvenile facilities. This data is aggregated annually and submitted to the Department of Justice (DOJ) in response to their request. It is noted that the request for 2018 data has not yet been received from DOJ.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Prison Rape Elimination Act Annual Report for 2016, 2017, and 2018
- Montana Women's Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019
- Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017
- Survey of Sexual Victimization summary and incident-specific forms for 2017 for both adult and juvenile facilities
- 10/19/17 memo from the PREA Coordinator regarding the agency's SharePoint system
- Agency public website at <https://cor.mt.gov/PREA>

Interviews conducted:

- None are required by DOJ template or compliance tool

Standard 115.88: Data review for corrective action

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

115.88 (a)

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

115.88 (b)

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

115.88 (c)

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

115.88 (d)

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

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

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

115.88 (a)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.N.1. (page 13), requires that, "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." This language is mirrored in the Montana Women's Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019.

The Auditor located the 2016, 2017, and 2018 Prison Rape Elimination Act Annual Reports posted to the agency's public website (<https://cor.mt.gov/PREA>). The reports include the following:

- Background;
- Purpose;
- Definitions;
- Agency achievements to include corrective action and progress in addressing sexual abuse on both a facility and agency level;
- Areas to improve prevention, detection and response to include corrective action for the upcoming year;
- Descriptive information for each facility operated by the agency and contracted with by the agency; and
- Agency and facility-level aggregate data

In interviews conducted, the Director, PREA Coordinator, and PCM all confirmed in-depth data review in order to continuously improve PREA-related procedures and training. The Director reported the implementation of a new system of tracking and maintaining records into a single repository. Wardens are required to "dig into the data", asking questions, identifying problems, and then taking action. The PREA Coordinator reported significant, in-depth data review at three points: (1) for the federal Survey of Sexual Violence report; (2) for the annual report in which each facility is asked about trends, issues, and needs; and (3) at an annual conference with agency administrators, where all available data, including from the Office of Investigations, is analyzed for trends and action plans developed.

The PREA Coordinator reported that the agency and facilities not only look at raw numbers, but also the ratio to the number of offenders in the facility population to effectively analyze issues and information based on the specific facility. She added that his type of analysis ultimately led to a dedicated PREA investigator for MWP.

The PCM reported that the facility is analyzing data relative to incident, location, participants, etc. continuously. An example provided was when a trend was identified regarding allegations from shower areas, all floor length shower curtains were replaced with "PREA curtains" which are clear at the top and bottom and opaque in the center, allowing staff to observe how many offenders are in the shower stall while maintaining privacy for offenders. The PCM reported that following this modification, shower-related allegations dropped significantly.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.88 (b)

The Auditor reviewed the 2016, 2017, and 2018 Prison Rape Elimination Act Annual Reports posted to the agency's public website (<https://cor.mt.gov/PREA>). The reports include a breakdown of allegations by type and finding from 2014 through 2018.

The most recent report includes areas to improve prevention, detection, and response for the agency and individual facilities which details improvement plans for the next year. The report also includes a section detailing agency achievements, which includes details regarding how the agency and facilities have and continue to address sexual abuse.

The reports do not include identification of problem areas and corrective action planning for each facility and the agency as a whole as required by the standard. This was discussed with the PREA Coordinator and Quality Assurance Director, who detailed planned layouts for the upcoming annual report, significantly expanding this information. Based on these plans and the facility's extensive and proactive approach to data analysis, MWP is assessed as compliant with the requirements of this subsection.

115.88 (c)

The Auditor reviewed the 2016, 2017, and 2018 Prison Rape Elimination Act Annual Reports posted to the agency's public website (<https://cor.mt.gov/PREA>). The reports have been approved by the Agency Director. The requirement for Director approval of these reports was confirmed in an interview with the Director.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.88 (d)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.N.7. (page 14), requires that, "The Department will make all aggregated sexual abuse data, from facilities under its direct control and private facilities with which it contracts, available to the public at least annually through the Department website. All personal identifiers will be removed from this data prior to making it public. The Department will maintain sexual abuse data for at least 10 years after the date of its initial collection."

The Auditor reviewed agency annual PREA reports located at the public website at <https://cor.mt.gov/PREA>. No personal identifying information was located in any of these reports.

During an on-site interview, the PREA Coordinator reported that the annual report has been developed with the reader in mind, creating a presentation that is easy to digest. The agency only reports general numbers, so there has been no need to redact. This was confirmed in reviews of all available annual reports.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- 2016, 2017 and 2018 Prison Rape Elimination Act Annual Reports
- Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017
- Montana Women's Prison Operational Procedure MWP 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 07/17/2019
- Agency public website at <https://cor.mt.gov/PREA>

Interviews conducted:

- Agency Head
- PREA Compliance Manager
- PREA Coordinator

Standard 115.89: Data storage, publication, and destruction

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

115.89 (a)

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

115.89 (b)

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

115.89 (c)

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

115.89 (d)

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

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

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

115.89 (a)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.N.4. (page 13 – 14), requires that, “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. Each 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.”

Per a memo received from the PREA Coordinator, “The Department has established a SharePoint site for allegation data collection. SharePoint is a web-based program that all PREA Compliance Managers, the PREA Coordinator, and investigations staff have access to. Compliance Managers will enter all allegations in SharePoint and can document all information needed for the annual SSV forms as well as track the investigation process, retaliation monitoring information, medical/mental health referrals, investigation outcomes, and incident reviews. Because the PREA Coordinator and investigation staff have access to the site, they can review all allegations. This provides Department level oversight to ensure proper investigations, track responses to allegations, and provide expertise into matters regarding sexual abuse. All PCMs were trained to use SharePoint on 8/30/17 and the program was active 9/15/17.” While on site, the Auditor was able to view a demonstration of the SharePoint system, confirming the inclusion of identified information in a comprehensive system that appears to be working well for the agency.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.89 (b)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.N.7. (page 14), requires that, “The Department will make all aggregated sexual abuse data, from facilities under its direct control and private facilities with which it contracts, available to the public at least annually through the Department website. All personal identifiers will be removed from this data prior to making it public. The Department will maintain sexual abuse data for at least 10 years after the date of its initial collection.”

The Auditor located the agency’s annual PREA reports from 2016, 2017, and 2018 on the department’s public website at <https://cor.mt.gov/PREA>., confirming public accessibility of the required information.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.89 (c)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.N.7. (page 14), requires that, “The Department will make all aggregated sexual abuse data, from facilities under its direct control and private facilities with which it contracts, available to the public at least annually through the Department website. All personal identifiers will be removed from this data prior to making it public. The Department will maintain sexual abuse data for at least 10 years after the date of its initial collection.”

The Auditor reviewed the agency annual reports for 2016, 2017 and 2018, ensuring that these contained no personally identifying information.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.89 (d)

Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017, section IV.N.4. (page 13 – 14), requires that, “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. Each 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.” The same policy, section IV.N.7. (page 14), requires that, “The Department will make all aggregated sexual abuse data, from facilities under its direct control and private facilities with which it contracts, available to the public at least annually through the Department website. All personal identifiers will be removed from this data prior to making it public. The Department will maintain sexual abuse data for at least 10 years after the date of its initial collection.”

The Auditor reviewed the agency’s annual reported from 2016, 2017, and 2018. Reports contain data back to 2014. Per 08/14/19 email from the PREA Coordinator, “Data prior to 2014 would be non-existent, at least in the format and to the level of detail that we now keep records. Our offender management system may contain individual information on inmates in their disciplinary or chronological notes, but we would not have agency-wide data, as it was not collected. Even though some of our agency’s PREA work was started prior to 2014, it really didn’t get off the ground until Spring of 2014. Our first round of audits started in 2016, with all of our facilities being audited that year. In addition, it wasn’t until September 2017 that we moved to a Department-wide electronic record keeping system of all PREA allegations. Prior to that, information was stored at each facility, often in paper records.” The agency will continue to build on data and information publicly available.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

Documentation provided for this standard:

- Agency policy DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*, 09/12/2017
- 10/19/2017 memo from the PREA Coordinator regarding the agency’s SharePoint system
- 08/14/2019 email from the PREA Coordinator regarding historical agency data
- Agency public website at <https://cor.mt.gov/PREA>

Interviews conducted:

- PREA Coordinator

AUDITING AND CORRECTIVE ACTION

Standard 115.401: Frequency and scope of audits

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

115.401 (a)

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

115.401 (b)

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

115.401 (h)

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

115.401 (i)

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

115.401 (m)

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

115.401 (n)

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

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

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

115.401 (a)

During the 2013 – 2016 audit cycle, the Montana Department of Corrections (MDOC) completed DOJ certified PREA audits in all seven facilities operated by or on behalf of the Department. During the 2016 – 2019 audit cycle, the agency completed DOJ certified PREA audits in the six facilities operated by or on behalf of the agency. Audit reports were located on the agency's public website.

During the 2019 – 2022 audit cycle, MDOC scheduled the four facilities currently operated by or on behalf of the agency as follows:

- 08/2019 – 08/2020 – Montana Women's Prison and Crossroads Correctional Center
- 08/2020 – 08/2021 – Montana State Prison
- 08/2021 – 08/2022 – Pine Hills Correctional Facility

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.401 (b)

During the 2013 – 2016 audit cycle, the Montana Department of Corrections (MDOC) completed DOJ certified PREA audits in all seven facilities operated by or on behalf of the Department. During the 2016 – 2019 audit cycle, the agency completed DOJ certified PREA audits in the six facilities operated by or on behalf of the agency. Audit reports were located on the agency's public website.

During the 2019 – 2022 audit cycle, MDOC scheduled the four facilities currently operated by or on behalf of the agency as follows:

- 08/2019 – 08/2020 – Montana Women's Prison and Crossroads Correctional Center
- 08/2020 – 08/2021 – Montana State Prison
- 08/2021 – 08/2022 – Pine Hills Correctional Facility

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.401 (h)

The on-site team was provided escorted access to all areas of the facility, both during the formal tour as well as throughout the on-site review. Staff were very open to showing the Team any area asked about and took members back to areas to observe physical plant modifications completed or as needed to answer any additional questions the Team had during the on-site review.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.401 (i)

The Auditor was provided with all documentation received in a quick and complete manner, prior to, during, and following the on-site review. Additionally, all questions posed were thoroughly and promptly responded to.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.401 (m)

Both members of the on-site team were provided areas in the facility in which private interviews with staff, contractors, volunteers, and inmates were conducted. Interviews were conducted in a conference room and a private office in the administrative portion of the facility.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

115.401 (n)

The Auditor was provided with documentation of audit notice postings at least six (6) weeks in advance of the on-site review. These postings were also observed throughout the facility during the on-site review, confirming the ability of staff, offenders, and members of the public to confidentially contact the Auditor.

Prior to the on-site review, the Auditor received three (3) letters from offenders. Those offenders, in addition to two (2) offenders who expressed a desire to speak with the Auditor while touring the facility were interviewed as part of the on-site review.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

Standard 115.403: Audit contents and findings

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

115.403 (f)

- The agency has published on its agency website, if it has one, or has otherwise made publicly available, all Final Audit Reports within 90 days of issuance by auditor. The review period is for prior audits completed during the past three years PRECEDING THIS AGENCY AUDIT. In the case of single facility agencies, the auditor shall ensure that the facility's last audit report was published. The pendency of any agency appeal pursuant to 28 C.F.R. § 115.405 does not excuse noncompliance with this provision. (N/A if there have been no Final Audit Reports issued in the past three years, or in the case of single facility agencies that there has never been a Final Audit Report issued.) Yes No NA

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

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

115.403 (f)

The Auditor reviewed the agency's PREA-related postings on their public website at <https://cor.mt.gov/PREA>. Information included on this site are annual PREA reports, MDOC prison facility audit reports beginning in 2016, audit reports from all facilities operated by or on behalf of the agency, and applicable agency policies and procedures.

Based on the above, MWP is assessed as compliant with the requirements of this subsection.

AUDITOR CERTIFICATION

I certify that:

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

Auditor Instructions:

Type your full name in the text box below for Auditor Signature. This will function as your official electronic signature. Auditors must deliver their final report to the PREA Resource Center as a searchable PDF format to ensure accessibility to people with disabilities. Save this report document into a PDF format prior to submission.¹ Auditors are not permitted to submit audit reports that have been scanned.² See the PREA Auditor Handbook for a full discussion of audit report formatting requirements.

Beth L. Schubach _____

10/17/2019 _____

Auditor Signature

Date

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

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