

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

Interim **XXXX** Final

Date of Report November 8, 2018

Auditor Information

Name: Jillian Shane	Email: jillian.shane@state.nm.us
Company Name: Click or tap here to enter text.	
Mailing Address: 615 First Street, NW	City, State, Zip: Albuquerque, New Mexico 87102
Telephone: 575-915-4194	Date of Facility Visit: February 23-26, 2018

Agency Information

Name of Agency: Montana Department of Corrections		Governing Authority or Parent Agency (If Applicable): State of Montana	
Physical Address: 5 S. Last Chance Gulch		City, State, Zip: Helena, Montana 59601	
Mailing Address: Click or tap here to enter text.		City, State, Zip: Click or tap here to enter text.	
Telephone: 406-846-1320		Is Agency accredited by any organization? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
The Agency Is:	<input type="checkbox"/> Military	<input type="checkbox"/> Private for Profit	<input type="checkbox"/> Private not for Profit
<input type="checkbox"/> Municipal	<input type="checkbox"/> County	<input checked="" type="checkbox"/> State	<input type="checkbox"/> Federal
Agency mission: The Montana Department of Corrections staff enhances public safety; supports the victims of crime; promotes positive change 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	Title: Director
Email: Reginald.michael@mt.gov	Telephone: 406-444-4913

Agency-Wide PREA Coordinator

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

Facility Information

Name of Facility: Montana State Prison	
Physical Address: 400 Conley Lake Road, Deer Lodge, Montana 59722	
Mailing Address (if different than above): Click or tap here to enter text.	
Telephone Number: 406-846-1320	
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"/> XXX State <input type="checkbox"/> Federal
Facility Type:	<input type="checkbox"/> Jail <input checked="" type="checkbox"/> XXX Prison
Facility Mission: The Montana Department of Corrections staff enhances public safety; supports the victims of crime; promotes positive change in offender behavior; and reintegrates offenders into the community	
Facility Website with PREA Information: https://cor.mt.gov/PREA	

Warden/Superintendent

Name: Jim Salmonsens	Title: Warden, Acting
Email: jim.salmonsens@mt.gov	Telephone: 406-846-1320

Facility PREA Compliance Manager

Name: Bill Weddington	Title: PREA Specialist
Email: bill.weddington@mt.gov	Telephone: 406-846-1320

Facility Health Service Administrator

Name: Melissa Scharf	Title: MSP Health Services Director
Email: mescharf@mt.gov	Telephone: 406-846-1320

Facility Characteristics

Designated Facility Capacity: 1734	Current Population of Facility: Click or tap here to enter text.
Number of inmates admitted to facility during the past 12 months	1555
Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 30 days	1429

or more:		
Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 72 hours or more:		1528
Number of inmates on date of audit who were admitted to facility prior to August 20, 2012:		139
Age Range of Population:	Youthful Inmates Under 18: NA	Adults: 18-82
Are youthful inmates housed separately from the adult population?		<input type="checkbox"/> Yes <input type="checkbox"/> No XXX NA
Number of youthful inmates housed at this facility during the past 12 months:		0
Average length of stay or time under supervision:		735
Facility security level/inmate custody levels:		Six Levels: Maximum, Close, Medium I and II, Minimum I and II
Number of staff currently employed by the facility who may have contact with inmates:		633
Number of staff hired by the facility during the past 12 months who may have contact with inmates:		85
Number of contracts in the past 12 months for services with contractors who may have contact with inmates:		10
Physical Plant		
Number of Buildings: 38		Number of Single Cell Housing Units: 2
Number of Multiple Occupancy Cell Housing Units:		9
Number of Open Bay/Dorm Housing Units:		1
Number of Segregation Cells (Administrative and Disciplinary):		39
Description of any video or electronic monitoring technology (including any relevant information about where cameras are placed, where the control room is, retention of video, etc.):		
Click or tap here to enter text.		
Medical		
Type of Medical Facility:		Infirmary
Forensic sexual assault medical exams are conducted at:		First Step in Missoula, Montana
Other		
Number of volunteers and individual contractors, who may have contact with inmates, currently authorized to enter the facility:		292
Number of investigators the agency currently employs to investigate allegations of sexual abuse:		6 criminal 12 administrative

Audit Findings

Audit Narrative

On January 9, 2018, Montana Department of Corrections (MDOC) and New Mexico Corrections Department entered into a contract for a Department of Justice (DOJ) Prison Rape Elimination Act (PREA) Audit of Montana State Prison (MSP), located at 400 Conley Lake Road, Deer Lodge, Montana. Both participants are part of the Western Consortium. The contract stated that the PREA onsite portion of the audit would be conducted February 23-27, 2018.

A review of prior audits indicates that the MSP did have one prior PREA Audit and a final report was submitted on October 18, 2016.

On January 12, 2018, the auditor provided the PREA Coordinator with a flyer that stated "Be advised that during the days of February 23-27, 2018, a Department of Justice Certified Auditor will be on-site to audit our facility in reference to the Prison Rape Elimination Act (PREA). You may write to this auditor prior to his audit should you have any concerns or if you wish to speak with the auditor during the audit at Jillian Shane, 615 First Street, NW Albuquerque, New Mexico 87102. Please write on the envelope "For PREA Audit" and it will be treated as confidential legal mail"

The facility was given instructions to post the notice in all areas where staff, inmates and visitors may view. For segregation units each inmate was to be provided a copy or it be posted where all could posted flyers. On January 16, 2018, photos were received from a staff member of the Montana State Prison. The photos depicted areas that the notice was posted. The photos did not contain a date or time stamp per the instructions.

On January 18, 2018, the auditor received a compact disk from MSP. The disk contained the facility Pre Audit Questionnaire (PAQ) and all relevant documentation. A thorough evaluation of all documentation and material submitted was completed during the pre-audit phase. The documents reviewed included agency policies, procedures, forms, education material, training curriculums, rosters, organizational chart, posters, brochures and specific documents to illustrate compliance with the PREA standards. This review prompted a series of questions and answers between the auditor, the PCM and the PREA Coordinator. All responses from the PREA Coordinator were completed in a timely manner and prior to the audit team arrival at the facility for the on-site portion of the audit. However, many of the facility level questions were not answered in a timely fashion and required many follow up attempts. While onsite, the Auditor and the PREA Coordinator had to make a new list and track down all the answers one by one which was extremely time consuming.

On February 20, 2018, the Auditor emailed both The Moss Group, Inc and Just Detention International to ask if these organizations have received any recent complaints or compliance concerns from or in

regards to Montana State Prison. A response was received from Just Detention International that they had no complaints or concerns on record. No response was received from the Moss Group.

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

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

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

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

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

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

Staff:

- * *Superintendent/Warden*
- * *PREA Compliance Manager*
- * *Medical staff*
- * *Mental health staff*
- * *Human Resources*
- * *Volunteers AND contractors who have contact with inmates*
- * *Investigative staff*
- * *Staff who perform screening for risk of victimization and abusiveness*
- * *Staff who supervise inmates in segregated housing*

- * *Staff on the Incident Review Team*
- * *Designated staff member charged with monitoring for retaliation*
- * *First responders, both security and non-security*
- * *Intake staff*

Inmate:

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

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

A schedule was developed prior to the audit and was tentatively adhered to and included:

Tentative Schedule for Audit of Montana State Prison		
Friday February 23, 2018	0800	Entrance Meeting at MSP
	0830	Tour of All Facility Grounds (Jill Robin and Jose)
	1130	Lunch
	1300	Tour (Jill)
	1800	Interviews with Random Staff and Inmates, Specialized Staff and Inmates (Robin and Jose) Adjourn for day
Saturday February 23, 2018	0800	Resume interviews with Random Staff and Inmates, Specialized Staff and Inmates
	1130	Lunch
	1400	Review of any additional documentation/questions
	1900	Adjourn for day
Sunday February 24, 2018	0800	Resume interviews with Random Staff and Inmates, Specialized Staff and Inmates (Robin and Jose) Off Site Visit (Jill)
	1130	Lunch
	1400	Review of any additional documentation/questions
	1900	Adjourn for day
Monday February 25, 2018	0800	Interviews with Random Staff and Inmates, Specialized Staff and Inmates
	1130	Lunch
	1200	Review of any additional documentation/questions

On February 23, 2018, at 0800 hours, an in brief was conducted with the following staff in attendance:

Jillian Shane, Lead Auditor, Certified DOJ PREA Auditor
Robin Bruck, Audit Support Staff
Jose Santiago, Audit Support Staff
Vickie Squires, MSP HR Technician
Cheryl Bolton, MSP Admin. Officer
Shannon Maes, MSP Medical Records Supervisor
Melissa Scharf, MSP Director of Nursing
Terrie Stefalu, MSP Religious Activities Coordinator
Marisa Bostwick, MSP Education Director
Keith Lopez, MSP Licensed Addiction Counselor
Dave McDonald, MSP Assistant Director Food Factory
Erin Grunhuvd, MSP MH Treatment Unit Supervisor
Thomas Snowden, MSP First Shift Staff Sergeant
Amy Barton, MSP PIO
Larry Kakez, Lieutenant
Sam Jovanovich, MSP Unit Manager
Jeff Baslington, MSP Assistant Food Supervisor
Carle Strutzel, MSP Unit Manager
Toni Barclay, MSP Unit Manager
Chris Conell, MSP Unit Manager
Tammy Stidham, MSP Purchasing Manager
Robert Harmon, MSP Security Manager
Kristy Cobban, MSP TCSB Chief
Gayle Butler, MCE Administrator
Ross Wagner, MCE AG Director
Tom Wood, MSP Associate Warden
Jim Salmonsens, MSP Acting Warden
Patrick Sheehan, MSP PCM
Michele Morgenroth, MDOC PREA Coordinator
Kurt Aughney, Director of Quality Assurance

A complete tour of all facility grounds was completed which included:

Armory
Administrative Building
Gym, High Security
Security Services
Infirmary

Low Support
Gym
A Unit
D Unit
B Unit
C Unit
Chapel
High Kitchen
High Dining
Unit HSU 1
Unit HSU 2
Unit LHU 2
High Support
High Visiting
Unit LHU 1
Guard Station
Towers
Warehouse
MVM/Vocational Training Room
Industries
Tag Plant
Maintenance Shops
Farm Machinery Repair
Yard Storage
Fire House/Shed
Food Factory
Industries Dining
Cat Shack
Central Reception
Warehouse
Tool Control Office
Ranch Warehouse

A total of fourteen inmate letters were received by the auditor prior to this visit. During the visit, seven inmates were interviewed. Three inmates were no longer at the facility, two letters were not regarding PREA related matters and were forwarded to MDOC to respond to and the remaining two were not interviewed due to a lack of time on-site. (They were later interviewed during the second visit.)

The facility provided a list to the auditor of specialized staff and inmates for this visit audit visits. The numbers identified for each are as follows and the numbers interviewed included:

Staff Interviews at Montana State Prison

Type	Target Number	Number Identified on Site by Facility	Number Completed
Staff Interviews Total	At least 50		70
Staff Interviews –Random	At least 30		47
Staff Interview – Target	At least 20		23
Agency Contract Administrator			1
Intermediate or higher level staff	1	1	4
Line Staff who Supervise Youthful Inmates (if any)	3	NA	NA
Education and Program Staff	1		2
Medical	3		3
Mental Health	2	59	3
HR Staff	2	18	2
SAFE/SANE	1		1
Volunteer	1		1
Contractor	2		2
Investigation Staff	2		2
Staff who perform Screenings	1	4 sworn 2 non-sworn	3
Segregation Staff	1		3
SART Team members	1		1
Retaliation Monitor	1		1
First Responders, security and non-security	1		1
Intake Staff	4		7
Agency Head	2		2
Superintendent	1	1	1
PREA Coordinator	1	1	1
PCM	1	1	1

Inmate Interviews at Montana State Prison

Type	Target Number	Number Identified by Facility onsite	Number Completed
Inmate Interviews Total	At least 40	1641 (on July 23, 2018)	51
Inmate Interviews –Random	At least 20		29
Inmate Interview – Target	At least 20		22
IM -Youthful Inmates	At least 3	0	0
IM – Physical Disability	At least 1	25	2
IM – Blind, Deaf, Hard of Hearing	At least 1	47	2
IM – LEP	At least 1	0	0
IM –Cognitive Disability	At least 1	42	4
IM – Lesbian, Gay or Bi-sexual	At least 2		1
IM – Transgender or Intersex	At least 3	10	4
IM – Segregated for High Risk of Victimization	At least 2		2
IM – Reported Abuse	At least 4	Unable to provide total number	4
IM – Reported Victimization during Screening	At least 3	Unable to provide number	4

On February 25, 2018, an out-brief was held to discuss the initial findings based on the exit of the audit team. This meeting consisted of:

- Gayle Lambert, MCE Administrator
- Ross Wagner, MCE AG Director
- Jim Salmonsens, MSP Acting Warden
- Patrick Sheehan, MSP PCM
- Michele Morgenroth, MDOC PREA Coordinator
- Alicia Tangen, Quality Assurance Officer
- Kurt Aughney, Director of Quality Assurance
- Jillian Shane, Lead Auditor, Certified DOJ PREA Auditor
- Robin Bruck, Audit Support Staff
- Jose Santiago, Audit Support Staff

Prior to the audit, a total of 17 standards were expressed by the auditor, which required further documentation from the facility. During this review period, prior to the on-site portion of the audit, the PREA Coordinator was extremely responsive. The facility, however, did not provide much information or response. While on-site, the lead auditor provided the PREA Coordinator with copies of the emails and all required remaining information from the pre-site review.

During an audit of another Montana Prison, the auditor toured the medical unit of this MSP. This facility is approximately three and a half hours away. The medical facility is called Lewistown Infirmary. While there, the audit team toured the facility, interviewed 6 staff members and 8 inmates assigned to this facility. In addition, the Lewistown Infirmary Unit Rules and Guidelines were reviewed, which included additional PREA information. Some areas were identified that needed correcting to included volunteer and contractor clearances and training as well as the specialized medical staff training.

During the pending on this corrective action and review period,

A second visit of the facility was scheduled for the week of July 23, 2018. This visit included all three of the audit staff who were on the first visit: lead auditor Jillian Shane, audit support staff Jose Santiago and audit support staff Robin Bruck. This visit was scheduled to focus on the corrective action areas identified during the first visit and file reviews.

A notice of this second visit was posted by the facility on July 11, 2018 and pictures of all areas where it was posted were provided to the auditor.

The tentative schedule developed and followed was:

Tentative Schedule for Audit of Montana State Prison		
Monday July 23, 2018	0800	Entrance Meeting at MSP
	0830	Tour of CA related areas
		Selection of files to review so staff and pull and prepare

	1130	Lunch
	1300	Review of selected files (HR, Training, IM, BH/MH, Investigative)
	1900	Adjourn
Tuesday July 24, 2018	0800	Resume interviews with, Specialized Staff and Inmates
	1130	Lunch
	1400	Review of any additional documentation and files
	1730	Review of any additional documentation/questions
	1900	Adjourn for day
Wednesday July 25, 2018	0800	Interviews with Random Staff and Inmates
	1130	Lunch
	1300	Closeout Adjourn for day

The inmate count at the start of this visit was 1641.

An opening meeting and review was held in the training room in which the following staff were present:

Cynthia Wolken	Deputy Director	MDOC
Jamie Ray	Mental Health Manager	MSP
Chris Conell	Unit Manager	MSP
Billie Reich	Program Manager	MSP
Gayle Butler	Division Administrator	MCE
Ross Wagner	Agriculture Director	MCE
Heidi Abbott	Assistant Director of Nursing	MSP
Cynthia McGillis Hiner	Bureau Chief	Clinical Services
Nancy Sharkey	Staff Development/Training	MSP
Walter Bolton	Staff Development/Training	MSP
Tom Wilson	AW Programs	MSP
Michael Zuber	AW Security (A)	MSP
Amy Barton	PIO	MSP
Cynthia Davenport	HR Manager	MSP
Alvin Fode	Unit Manager	MSP
Toni Barclay	Unit Manager	MSP
Demetric Godfrey	Contract Placement Manager	MSP
Alicia Tangen	Compliance Manager	MSP
Sam Jovanovich	Unit Manager	MSP
Jim Solmonson	Warden (A)	MSP
Reg Michael	Director	MDOC
Michelle Morgenroth	PREA Coordinator	MDOC

During this second visit, the following areas were toured and visited again due to the concerns raised during the first visit:

D-Wing
Wood Shop
Cattle Program Areas
Treatment Center
Intake
Low Side
HSU

A closing meeting and review was held in the training room in which the following staff were present:

Cynthia Wolken	Deputy Director	MDOC
Jamie Ray	Mental Health Manager	MSP
Billie Reich	Program Manager	MSP
DJ Godfrey	Contract Monitor	MSP
Michael Chase	HR	MSP
Gayle Butler	Division Administrator	MCE
Heidi Abbott	Assistant Director of Nursing	MSP
Cynthia McGillis Hiner	Bureau Chief	Clinical Services
Nancy Sharkey	Staff Development/Training	MSP
Walter Bolton	Staff Development/Training	MSP
Tom Wilson	AW Programs	MSP
Holly Callarman	HR	MSP
Michael Zuber	AW Security (A)	MSP
Amy Barton	PIO	MSP
Cynthia Davenport	HR Manager	MSP
Skyler MacDonald	HR	MSP
Don Gerstein	Staff Development/Training	MSP
Kurt Aughney	QA Director	MDOC
Kristy Cobban	TCSB Chief	MSP
Alicia Tangen	Compliance Manager	MSP
Jim Solmonson	Warden (A)	MSP
Reg Michael	Director	MDOC
Michelle Morgenroth	PREA Coordinator	MDOC

For the second visit that was posted, a total of ten inmate letters were received by the auditor. Of these, one was not a PREA related matter, and was provided to MDOC to respond to and four were related to the same incident and inmate. During this visit, five were interviewed as they relate to these letters. The auditor did not interview the duplicate letters since they would not be able to discuss the incident specifics and it was clear these letters were duplicated when written.

During the corrective action period, the auditor was forwarded a news release from the Montana Department of Corrections dated June 7, 2018 which stated:

Montana Department of
Corrections

News Release

Corrections to close secure infirmary wing at Lewistown Nursing Care Center

Montana Department of Corrections Director Reginald D. Michael on Thursday announced that the 25-bed infirmary in Lewistown will close by late July. The facility employs nine department security personnel, including eight correctional officers and one supervisor.

The Lewistown Infirmary opened on December 17, 2012, in partnership with the Department of Public Health and Human Services (DPHHS). The secure Corrections wing is part of the Montana Mental Health Nursing Care Center (MMHNCC) and houses up to 25 inmates with serious, long-term medical conditions.

There are currently 23 inmates in the infirmary. Of those, 13 are potentially eligible for medical parole because they have both a mental health diagnosis such as dementia and medical conditions that qualify them for placement in the DPHHS nursing home portion of the facility. These placements would be made only if approved by the Board of Pardons and Parole and DPHHS.

"Many of the inmates in the facility are elderly dementia patients who have mobility and other medical conditions," Michael said. "Because of these health conditions, they do not pose a risk to public safety and would be better served in a nursing home environment."

Three inmates in the infirmary will complete their sentences in the coming months and be discharged. The remaining seven inmates are not eligible for parole and will be transferred to Montana State Prison. Clinical Services Division staff at Montana State Prison are developing individualized plans to meet these offenders' medical and mental health needs.

Assuming the Corrections wing closes on July 31, 2018, and 16 of the inmates at the facility are medically paroled or complete their sentences, Corrections

expects to save \$2,709,650 for the 11 months remaining in Fiscal Year 2019. This includes \$2,038,923 for the contract with DPHHS and savings in pharmaceutical and outside medical costs, and \$670,727 in staff reductions.

"The Department of Corrections is continuing to look at options that will allow us to live within our budget," Michael said. "Given the cuts mandated by the last legislature, we are weighing the costs and benefits of various programs, and identifying ways to implement more cost-effective services."

The nine Corrections employees who provided security for the infirmary will have the opportunity to transfer to similar positions with Montana State Prison, Montana Women's Prison and the Pine Hills Correctional Facility. Corrections are working closely with the Department of Labor and Industry to provide services for the Lewistown employees who will lose their jobs.

DPHHS Director Sheila Hogan said through the agreement, DPHHS provided certified nurse assistants (CNA) and support staff at the infirmary. These employees will remain employed at the MMHNCC to fill current open positions and address other needs on the nursing home side.

Hogan said discussions will occur in the coming months as to how the infirmary space will be used in the future. We know there is a tremendous need in Montana for the mental health nursing care services this facility provides," she said. "Our staff there provide excellent care, and in the coming months we will closely evaluate ways to utilize this space going forward."

A final memo was provided to the auditor which stated that the Lewistown Infirmary will officially be closing on December 1, 2018. All areas of corrective action were closed here with the only one remaining to bring this satellite facility into compliance was that of medical staff needing to complete their online NIC PREA training. Currently, the medical staff there are contracted through the Department of Health (as the infirmary is inside the DPHHS compound). Most staff not working, work one shift as they are contracted by DOH. Since the standard 115.35 (a) states that staff that work 'regularly' should receive this training, the facility and auditor agreed that with the very small number of inmates remaining, the facilities immediate closure and the number of security staff present, that this will be compliant.

In addition, due to the inconsistencies identified during the first visit, the auditor requested that the PAQ be completed again with updated numbers. However, due to the change in staff and inaccurate record keeping, some numbers were unable to be provided definitively. The new PCM did provide the auditor with updated numbers for the time period that was available.

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.

Montana State Prison (MSP) is the largest correctional facility in the state, housing nearly 1,650 male inmates in a 68 acre compound designed to handle all custody levels: maximum, close, medium and minimum. Located in Deer Lodge Valley, approximately 3.5 miles west of the town of Deer Lodge, the prison is a familiar symbol of corrections in Montana and houses some of the most violent offenders in the State.

Montana State Prison and its staff of approximately 640 uniformed and non-uniformed employees serve the citizens of Montana by providing a secure correctional environment that supports public safety by encouraging positive offender change.

The prison is divided into three compounds: Low side, high side and locked housing. Within those custody levels are different types of Supervision. Inmates range from general and special management populations to those with serious mental illness and inmates housed for pre-hearing confinement, detention or those in locked housing due to ongoing or serious behavior management problems.

Montana State Prison uses unit management structure that is ultimately managed by a Warden, four associate wardens, and two bureau chiefs. Outside the fenced perimeter is a 192-bed work and reentry center, a 56-bed correctional treatment center and a 196 bed intake unit. The Work and Reentry Center houses minimum custody inmates who work on the 35,000 acre ranch and dairy program operated by Montana Correctional Enterprises (MCE). Together, the prison and MCE provide work for about 70 percent of the inmate population, as well as education, treatment, programming, recreation, religious activities and clinical services to promote the development of self-esteem, and environment that fosters self improvement and a work ethic that will services inmates before and after release.

Summary of Audit Findings

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

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

Number of Standards Exceeded: 0

Click or tap here to enter text.

Number of Standards Met: 45

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

- 115.76 Disciplinary sanctions for staff
- 115.77 Corrective action for contractors and volunteers
- 115.78 Disciplinary sanctions for inmates
- 115.81 Medical and mental health screenings; history of sexual abuse
- 115.82 Access to emergency medical and mental health services
- 115.83 Ongoing medical and mental health care for sexual abuse victims and abusers
- 115.86 Sexual abuse incident reviews
- 115.87 Data collection
- 115.88 Data review for corrective action
- 115.89 Data storage, publication, and destruction
- 115.401 Frequency and scope of audits
- 115.403 Audit contents and findings

Number of Standards Not Met: 0

Standards that required Corrective Action that has been Successfully Completed

- 115.11 Zero Tolerance of sexual abuse and sexual harassment; PREA Coordinator
- 115.15 Limits to cross-gender viewing and searches
- 115.16 Inmates with disabilities and inmates who are limited English proficient
- 115.31 Employee Training
- 115.32 Volunteer and contractor training
- 115.33 Inmate Education
- 115.41 Screening for risk of victimization and abusiveness
- 115.42 Use of screening information
- 115.43 Protective Custody
- 115.51 Inmate Reporting
- 115.53 Inmate access to outside confidential support services
- 115.62 Agency protection duties
- 115.63 Reporting to other confinement facilities
- 115.67 Agency protection against retaliation
- 115.71 Criminal and administrative agency investigations
- 115.73 Reporting to inmates
- 115.76 Disciplinary sanctions for staff
- 115.78 Disciplinary sanctions for inmates
- 115.81 Medical and mental health screenings; history of sexual abuse

PREVENTION PLANNING

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

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

115.11 (a)

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

115.11 (b)

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

115.11 (c)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

Documents and Policy Reviewed

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

Montana Department of Corrections, Organization Chart
State of Montana Job Description, PREA Program Manager
MSP, Organization Chart
Memos
Training certificates
Training Acknowledgments

Onsite Observations

Staff interactions and knowledge of PCM
Corrective Actions and completion of directives

Interviews

PREA Coordinator
PREA Compliance Manager (PREA Specialist)
Quality Assurance Director
Warden
DOC Director
Random Staff

Findings

- (a) Montana Policy Directive, *DOC 1.1.17, Prison Rape Elimination Act of 2003 (PREA)* states in Section I that the Department of Correction has zero tolerance relating to all forms of sexual abuse and sexual harassment in accordance with the standards set forth in the Prison Rape Elimination Act of 2003. The policy, which is eleven pages in length, continues on to outline the agency's approach to preventing, detecting and responding to such conduct. It includes but is not limited to: in terms of **prevention**, the policy speaks of inmate intake screenings and risk assessments, staffing plans, housing, LGBTI classification, and staff and inmate education and training; in terms of **detection**, the policy again outlines screenings and risk assessments, identifying indicators, LGBTI assessments, unannounced rounds, supervisory presence, and staff and inmate reporting; and lastly, in regards to **response**, the policy details the reporting process for both staff and inmates, the use of segregation, the investigation process and protocols, sanctions and aftercare in the event of an incident.

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

local procedure outlines retaliation monitoring that will be completed and the process related to.

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

Michele Morgenroth is the Agency wide PREA Coordinator. An interview was conducted with Ms. Morgenroth. She detailed all of her job responsibilities and duties. It was evident throughout the course of this audit, in preparation, which on-site and during the corrective action period that she is knowledgeable, involved heavily in the process and implementation, and lastly, that she has sufficient time and authority.

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

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

Corrective Action: Patrick Sheehan is the facility PREA Compliance Manager (identified as PREA Specialist in policy and hereafter) as of the pre-audit documentation and initial on-site review. An interview was conducted with Mr. Sheehan. He detailed all of his job responsibilities and duties. It was evident throughout the course of this audit, in preparation, which on-site and during the corrective action period that he is not in a clear understanding of all of the PREA Standards and what is required of each. In addition, concerns of his responses to the PAQ were and will continue to be addressed with Agency level Staff.

The PCM handles nearly all investigations into PREA for the facility. This is concerning to the auditor for the following reasons: 1. It could be a conflict to complete the retaliation monitoring, the after action reviews, possible staff discipline, etc when you are the same person conducting the investigations and 2. Other tasks are not understood or being completed timely due to the number of investigations and 3. It appears investigations are not thorough when handled at the facility level.

To rectify this issue the MDOC will retrain the PCM on the requirements of PREA; the Warden will meet with the PCM on a monthly basis to discuss PREA Compliance and tasks that must be completed. Investigations will be completed by other staff so the PCM could concentrate on the oversight of the program.

To gain compliance and improve facility processes, MSP had agreed to have monthly meetings between the Warden and PCM to discuss compliance concerns. Upon review, no notes were kept of said meetings, but the Warden's Administrative Support staff kept records on scheduled meetings for this task.

Per Cheryl Bolton, the Warden's Administrative Support, the following dates had scheduled meetings between the former PCM Patrick Sheehan and the Warden:

3/7/2017
3/15/2018
3/23/2018
3/27/2018
4/5/2018
4/10/2018
4/12/2018
5/3/2018
5/15/2018
5/16/2018
5/17/2018
5/29/2018

On May 29th, 2018 the MSP PREA department was reallocated from the Associate Warden of Housing's chain of command to the Technical Correctional Services Bureau (TCSB). PCM Patrick Sheehan is no longer with the Department of Corrections, with his last day of work being June 4th, 2018.

TCSB Bureau Chief Kristy Cobban is the acting PCM as the now vacant position is a direct report to the Bureau Chief. Meetings with the Warden have continued with specific dates to review CAP progress on

6/11/2018 and 6/12/2018. However, updates are given verbally or via email on our progress almost daily.

The PCM was moved to the Technical Correction Services Bureau (TCSB), as indicated in the attached organizational chart.

The previously assigned policy duties have been removed from the position and absorbed by the TCSB Bureau Chief. The new PCM job description, which was sent to the auditor and reviewed, clearly indicates that the PCM will no longer be responsible for any investigations into PREA allegations. This job description is currently with the Office of Human Resources being re-classified. The PCM is responsible for track, quality assurance and adherence of MSP to the PREA Standards. The PCM now has sufficient time and authority to coordinate the facility's efforts to comply with the PREA standards.

The new job description states that the PREA Compliance Manager: Designs, implements and monitors "Prison Rape Elimination Act" (PREA) program to facilitate compliance at MSP, providing statistical or management information reports, researching incident reports and complaints to ensure proper requests for investigation are filed, coordinating PREA training and assisting in the development and monitoring of continual federal and state grant programs pertaining to PREA. Quality assurance of the MSP PREA Program requires regular audits of various departments' documentation, physical plant, and random interviews of staff to ensure the Federal PREA Standards are adhered to. The PREA Compliance Manager is responsible for immediately addressing any identified deficits and ordering corrective action if necessary. This position acts on behalf of the Bureau Chief and the Warden to ensure MSP is in compliance at all times. Further, this position coordinates efforts with the Department of Corrections PREA Coordinator for ongoing training or changes related to feedback received in mock audits and Federal audits.

In addition, as it directly related to the standard and the PCM conducting all investigation, on June 26th through the 27th, additional investigators were trained. The updated approved investigator list was sent to the auditor via email on June 28th, 2018, also with a copy of the training roster and lesson plan.

The position was posted and a new hire was made for PCM at MSP. The job description was forwarded to the auditor and clearly outlines the job overview, the essential functions to include all PREA program coordinator, minimum qualifications, skills, knowledge, decision and problem solving needs and working conditions and physical demands of the job. Bill Weddington accepted the position and began work on October 1, 2018. He brings with him 28 years of law enforcement experience and a wealth of knowledge relating to implementing new programs and policies. The Auditor conducted a phone interview/meet and greet with Mr. Weddington. It was evident to the auditor that he understands the past and corrective action areas, what needs to continue to be completed where the facility is progressing towards. He seemed like a positive fit to the staff and the facility with his enthusiasm and positive attitude.

After the second on-site visit and further discussions, the auditor team expressed concerns in regards to Ms. Morgenroth's actual authority. This was due to the number of months that passed from the first visit and the appearance of a lack of cooperation from the facilities to her directives. After

multiple discussions with her Supervisor and the Director of the Department, I was assured that changes would be made to ensure all are clear on her authority and that she had full support of management. The PREA Coordinator then sent me samples of how this authority shift has been occurring. She has been working more with other departments in the agency and been included in executive planning and meetings. As these audits, external and internal have been progressing; she stated that changes are apparent and positive collaboration.

In addition, a memorandum was sent to all Wardens and Superintendents, dated September 27, 2018 which stated:

This memo is to reaffirm:

- *The Department PREA coordinator must be included in facility management meetings*
- *PREA Specific recommendation and directions from the PREA Coordinator must be followed.*

This memo was signed from Reginald Michael, the Director of the Montana Department of Corrections.

In addition, the Quality Assurance Director, to who the PREA Coordinator reports, spoke with the auditor and sent a memo which, in part, stated

To ensure PREA Coordinator authority is followed and understood throughout the Department, the following changes are being implemented:

- *The Quality Assurance Director now reports directly to the Departments Director. The PREA Coordinator is within the Quality Assurance Office.*
- *Schedule to take place in early December 2018, all wardens, superintendants and associate wardens, along with all PCM's, will be required to attend a two-day training in Helena at Central Office. This training will be led by the PREA Coordinator and will break down each individual standard and what the DOC does at each facility to be in continual compliance with each standard.*
- *Each Warden and Superintendant have been instructed that they must facilitate a meeting between their management staff and the Departments PREA Coordinator on at least a quarterly basis to discuss and ensure full PREA Compliance is maintained and a zero tolerance culture for sexual abuse and sexual harassment exists.*

Based on the aforementioned reviews, the facility and agency are in compliance with this standard.

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

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

115.12 (a)

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

115.12 (b)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

Documents and Policy Reviewed

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

Interviews

PREA Coordinator
Quality Assurance Director

Findings

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

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

Based on the aforementioned reviews, the facility and agency are in compliance with this standard.

Standard 115.13: Supervision and monitoring

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

115.13 (a)

- Does the agency ensure that each facility has developed a staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring, to protect inmates against sexual abuse? XXX Yes No
- Does the agency ensure that each facility has documented a staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring, to protect inmates against sexual abuse? XXX Yes No
- Does the agency ensure that each facility's staffing plan takes into consideration the generally accepted detention and correctional practices in calculating adequate staffing levels and determining the need for

video monitoring? XXX Yes No

- Does the agency ensure that each facility's staffing plan takes into consideration any judicial findings of inadequacy in calculating adequate staffing levels and determining the need for video monitoring? XXX Yes No
- Does the agency ensure that each facility's staffing plan takes into consideration any findings of inadequacy from Federal investigative agencies in calculating adequate staffing levels and determining the need for video monitoring? XXX Yes No
- Does the agency ensure that each facility's staffing plan takes into consideration any findings of inadequacy from internal or external oversight bodies in calculating adequate staffing levels and determining the need for video monitoring? XXX Yes No
- Does the agency ensure that each facility's staffing plan takes into consideration all components of the facility's physical plant (including "blind-spots" or areas where staff or inmates may be isolated) in calculating adequate staffing levels and determining the need for video monitoring? XXX Yes No
- Does the agency ensure that each facility's staffing plan takes into consideration the composition of the inmate population in calculating adequate staffing levels and determining the need for video monitoring? XXX Yes No
- Does the agency ensure that each facility's staffing plan takes into consideration the number and placement of supervisory staff in calculating adequate staffing levels and determining the need for video monitoring? XXX Yes No
- Does the agency ensure that each facility's staffing plan takes into consideration the institution programs occurring on a particular shift in calculating adequate staffing levels and determining the need for video monitoring? XXX Yes No NA
- Does the agency ensure that each facility's staffing plan takes into consideration any applicable State or local laws, regulations, or standards in calculating adequate staffing levels and determining the need for video monitoring? XXX Yes No
- Does the agency ensure that each facility's staffing plan takes into consideration the prevalence of substantiated and unsubstantiated incidents of sexual abuse in calculating adequate staffing levels and determining the need for video monitoring? XXX Yes No
- Does the agency ensure that each facility's staffing plan takes into consideration any other relevant factors in calculating adequate staffing levels and determining the need for video monitoring? XXX Yes No

115.13 (b)

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

115.13 (c)

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

115.13 (d)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

Documents and Policy Reviewed

Pre-Audit Questionnaire
Montana Policy Directive, DOC 1.1.17 *Prison Rape Elimination Act of 2003 (PREA)*
PREA Annual Staffing Plan Review, dated December 12, 2017
Memos
PREA Annual Staffing Plan Review, dated July 15, 2018
Collective Bargaining Agreement

Organizational Chart
Training PowerPoint
Lesson Plan
Training Acknowledgments
Training Sign on Sheets
Unannounced Rounds Log Sheet

Onsite Observations

Staff announcements
Signage

Interviews

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

Findings

- (a) The MSP Annual Staffing Plan Review Meeting, which was conducted December 12, 2017, and outlines the PREA staffing plan which includes consideration of PREA Incident Reviews, state and local laws, findings of inadequacy, and incidents of sexual abuse, whether substantiated or unsubstantiated. It also states that during the evaluation of staffing requirements, the Facility PREA Compliance Manager and PREA Coordinator will assess, determine and document the facility staffing plan. The facility also attached in the documentation provided to the auditor, staffing plan reviews from April 6, 2015 and February 2, 2017,

In addition, MDOC Policy Directive Number 1.1.17 states in section C. 2. that the Administrators will develop, document and make best efforts to comply on a regular basis with a staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring, to protect inmates against sexual abuse. In circumstances where the staffing plan is not complied with, facilities will document and justify all deviations from the plan.

- (b) MDOC Policy Directive Number 1.1.17 states in section C. 2. that the Administrators will develop, document and make best efforts to comply on a regular basis with a staffing plan that

provides for adequate levels of staffing and, where applicable, video monitoring, to protect inmates against sexual abuse. In circumstances where the staffing plan is not complied with, facilities will document and justify all deviations from the plan.

The facility policy and procedure does not state that in instances where a staffing plan is not complied with, the facility shall document and justify emergency/temporary deviations from the plan. When various staff, to include the PCM where interviewed about this requirement, they were unsure of the requirement to document. As a corrective action, it is recommended that this be added to procedure or trained and documented to staff.

The PAQ stated that during the twelve (12) month preceding the audit, there were instances whereas MSP deviated from the staff plan. The PAQ stated that the most common reason for deviations from the staffing plan is that of staff shortages. No documentation was attached detailing and justifying the deviations. A justification sheet was attached detailing post numbers, vacancy rates and percentages. This, however, is not detailing the deviation.

(c) The MSP Annual Staffing Plan Review Meeting, which was conducted December 12, 2017, and outlines the PREA staffing plan which includes consideration of PREA Incident Reviews, state and local laws, findings of inadequacy, and incidents of sexual abuse, whether substantiated or unsubstantiated. It also states that during the evaluation of staffing requirements, the Facility PREA Compliance Manager and PREA Coordinator will assess, determine and document the facility staffing plan. The facility also attached in the documentation provided to the auditor, staffing plan reviews from April 6, 2015 and February 2, 2017. Each of these reviews include detailed notes and the MDOC Annual Staffing Plan Review which details the staffing plan established requirements pursuant to paragraph (a) of this section.

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

In the initial documentation for this standard, the facility sent the auditor pages of a log book partially covering the date of 11-3-17. In this documentation, there is neither indication nor log of an unannounced round.

Corrective Action: During the tour and other visits to areas of the facility. Various concerns were seen by the audit team to include opposite gender viewing in shower areas, changing areas and restroom areas. The facility will complete a list of physical plant changes and send verification to the Auditor of each completion.

There was no documentation of nor were staff interviewed aware of the requirements for staff to conduct and log rounds and unannounced rounds. To correct this, the facility will identify which staff are responsible for conducting said rounds and training will be provided to those staff and documented via signature. A form will be created to document unannounced rounds and staff will complete these forms when conducting rounds. The PCM will begin to check these forms every other Monday to ensure their accuracy and completion. This will need to occur on each shift. Samples each month will be forwarded to the Auditor.

The facility policy and procedure did not state that in instances where a staffing plan is not complied with, the facility shall document and justify emergency/temporary deviations from the plan. When various staff, to include the PCM where interviewed about this requirement, they were unsure of the requirement to document. As a corrective action, it was recommended that this be added to procedure or trained and documented to staff.

A presentation was completed by the Statewide PREA Coordinator which detailed the PREA Standards and policy regarding unannounced rounds. This training was reviewed by the auditor and included all the language required in the standard. In addition, the language was added to the standard.

Photographs of areas where staff increased signage, added shower curtains, extended curtains and viewing areas and copies of the training were sent to the auditor to review. These specifically included but are not limited to Intake Window curtains, mirror in MDIU Closet, intake curtain in toilet area, and various locks in various locations. Lastly, numerous post order had language enhanced to ensure that opposite gender announcements were clearly written and requiring the logging of announcements and unannounced supervisory rounds.

Based on the aforementioned reviews, the facility and agency are in compliance with this standard.

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

115.14 (c)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

Documents and Policy Reviewed

Pre-Audit Questionnaire
 Montana Policy Directive, DOC 4.6.9, *Placement & Reporting of Youth with Adult Services*
 Montana State Prison, Operational Directive 4.2.1, *Inmate Classification System*

Onsite Observations

NA

Interviews

PREA Coordinator

PREA Compliance Manager (PREA Specialist)
Warden
Director

Findings

Montana Policy Directive, DOC 4.6.9, *Placement & Reporting of Youth with Adult Services* outlines the placement directive for the Department of Corrections. This was provided to the audit in the pre-audit documentation review. No part of the policy included any of the provisions of this standard.

Also provided to the auditor for review was Montana State Prison, Operational Directive 4.2.1, *Inmate Classification System*. The procedure includes language that states that ‘the classification assessment will help classification staff identify and make appropriate custody decisions for inmates who have special needs, such as separation, medical, vulnerable, predatory, assaultive, criminal convicted youth, or inmates under the age of 18”.

A sample of a youth placement agreement was included that is signed between the Montana State Prison and Pine Hills Youth Correctional Facility.

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

Based on the aforementioned reviews, the facility and agency are in compliance with 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? XXX Yes No

115.15 (b)

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

115.15 (c)

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

115.15 (d)

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

115.15 (e)

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

115.15 (f)

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

Auditor Overall Compliance Determination

Exceeds Standard (*Substantially exceeds requirement of standards*)

XXX Meets Standard (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

Does Not Meet Standard (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

Documents and Policy Reviewed

Pre-Audit Questionnaire

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

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

Montana State Prison Operational Procedure 3.1.17A, *Searches*

Montana Policy Directive, DOC 3.1.17, *Searches and Contraband Control*

Montana Policy Directive, DOC 3.1.21, *Inmate Count and Supervision*

Montana State Prison Operational Procedure, 3.4.102, *Unit Rules*

Montana State Prison Operational Procedure, 4.4.1, *Inmate Hygiene, Clothing & Linen Supplies*

Cross Gender Supervision PowerPoint and Lesson Plan

Cross Gender Supervision Handout

Pictures

Memos cad drawings

Pat Search Video

Pat Search Video Training Acknowledgments

Lesson Plans

Sign in Sheets

Onsite Observations

Tour

Interviews

PREA Coordinator

PREA Compliance Manager (PREA Specialist)

Supervisors

Random Staff

Random Inmates

Maintenance Staff

Findings

- (a) MSP Operation Procedure 3.1.17A, *Searches* stated that unclothed body searches should be conducted by male staff when possible. It is permissible for cross-gender unclothed body searches of male inmates when necessitated by staffing or emergency situations. It further stated that only the Warden is authorized to request outside health care providers to conduct a body cavity search / examination on an MSP inmate, and only when there is reasonable

suspicion to believe contraband will be found and the inmate has consented in writing to the search. The health care provider is required to have written authorization from the Warden and a physician and shall fully document the search and its results.

In the PAQ, The facility stated that in the past 12 months there has been no cross-gender strip or visual body cavity searches of inmates.

Cross Gender Supervision training was provided to the auditor and stated the facility shall not conduct cross gender unclothed searches or cross-gender visual body cavity searches except in exigent circumstances or when performed by medical practitioners.

Interviews with staff of various levels of supervision indicated that they there were aware of this requirement and, in addition, indicated that there was not an instance of this occurring that could be recalled.

(b) MSP does not house female inmates; therefore this provision of the standard is not applicable.

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

Interviews with staff of various levels of supervision indicated they would document the cross-gender strip or visual body cavity searches.

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

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

Further, *MSP Operational Procedure 4.4.1, Inmate Hygiene, Clothing & Linen Supplies* states that in order to enable inmates to shower, perform bodily function, and change clothing without nonmedical staff of the opposite gender viewing their buttocks, or genitalia, female custody staff are not to enter inmate shower and/or toilet areas and view inmates while they

shower, perform bodily functions and change clothes. In addition, It further stated that the only exception to this will be during circumstances when they are responding to signs that illegal or unauthorized activities may be in progress in these areas, or where such viewing is incident to the performance of other routine security duties. Inmates are required to dress in the shower areas.

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

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

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

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

Many staff demonstrated and/or stated that they would use the palms of their hands to conduct pat searches of transgender or intersex inmates.

Corrective Action: During the tour and other visits to areas of the facility. Various concerns were seen by the audit team to include opposite gender viewing in shower areas, changing areas and restroom areas. The facility will complete a list of physical plant changes and send verification to the Auditor of each completion.

The agency will complete the newly developed cross gender pat search training for all staff and forward the documentation to the auditor to review.

The facility created a very thorough pat search video, which was reviewed by the auditor. The video outlined the process for a pat search for cross gender pat searches as well as transgender and intersex inmates. It outlined the use of the back of hands, addressing the inmate about the process, how to stand, and how to search each area of the clothing and person.

Based on the aforementioned reviews, the facility and agency are in compliance with this standard.

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

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

115.16 (a)

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

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

115.16 (b)

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

115.16 (c)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

Documents and Policy Reviewed

Pre-Audit Questionnaire

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

Inmate Orientation, PowerPoint

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

Civil Rights Training, PowerPoint and Lesson Plan
Contract with Cyracom International, Inc

Onsite Observations

Posters

Interviews

PREA Coordinator

PREA Compliance Manager (PREA Specialist)

Supervisory Staff

Random Staff

Unit Manager

Classification Staff

Segregation Staff

Intake Staff

Findings

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

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

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

MDOC provided a contract that MSP utilizes for telephonic interpretation services (OPI) and Braille transcription services. The contract stated languages will include, but not be limited to, Spanish,

Russian, German, French, Montana Native American Tribes (based on availability), Mandarin, and Arabic.

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

An interview with the Statewide ADA Coordinator indicated that there was an instance in which the ADA services were used and aid in an investigation relating to a PREA matter. The Statewide ADA Coordinator provided me with copies.

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

Interviews with staff indicated they were aware of this requirement and no inmate or staff interviews indicated that any violation of this has occurred in the past.

Corrective Action: The facility will retrain all staff and re-distribute information relating to the use of these services. In addition, the statewide ADA coordinator will share the information with the PCM's to ensure they are aware of the use and needs of the services available. Documentation of the staff training and the process will be forwarded to the auditor.

A memo was sent to all staff via email on March 18, 2018 which stated: This memo is to remind all staff at Montana State Prison (MSP), that we have a signed contract with a third-party interpreter service Voiance. Montana State Prison staff can use the service at any time to get third party interpreters for inmates. The instructions for using the Voiance service is as follows:

1. Dial 1-866-998-0338 to access the interpretation services.
2. When prompted, enter your 5-digit account number: 23137
3. At the second prompt, enter your
- 4-digit PIN number: ****

MSP employees will use the interpreter Voiance service to ensure an inmate's safety, the performance of first-response duties under PREA Standard 115.64, or the investigation of the inmate's allegations. Per the PREA Standard 115.16(c), it states the following:

The agency shall not rely on inmate interpreters, inmate readers, or other types of inmate assistants 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.

If you have any questions about the service or the use of Voiance to ensure the inmate's safety, MSP staff's first responder duties, or using an interpreter during an investigation; please contact me.

In addition, the facility provided the book entitled *Don't Touch Me*, which was made by the Project on Addressing Prison Rape by the American University Washington College of Law, to all relevant staff to utilize in the event that an inmate who was cognitively impaired required this assistance.

This retraining for all staff was included in the training corrective action outlined in 115.31.

Based on the aforementioned reviews, the facility and agency are in compliance with this standard.

Standard 115.17: Hiring and promotion decisions

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

115.17 (a)

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

community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse? XXX Yes No

- Does the agency prohibit the enlistment of services of any contractor who may have contact with inmates who has been civilly or administratively adjudicated to have engaged in the activity described in the question immediately above? XXX Yes No

115.17 (b)

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

115.17 (c)

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

115.17 (d)

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

115.17 (e)

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

115.17 (f)

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

- Does the agency impose upon employees a continuing affirmative duty to disclose any such misconduct? XXX Yes No

115.17 (g)

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

115.17 (h)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

Documents and Policy Reviewed

Pre-Audit Questionnaire
Montana Policy Directive, DOC 1.1.17 *Prison Rape Elimination Act of 2003 (PREA)*
MDOC Policy 1.3.55, *Criminal Conviction in Employment*
MDOC Policy 1.3.2, *Performance and Conduct*
Acknowledgement and Disclosure Form
Hiring Packet
PREA Background Check Tracker
MDOC PREA Questionnaire
Memo
Lobby Roster
Staff Roster
Staff PREA Acknowledgment Forms

Onsite Observations

Random File Selection while on site

Interviews

PREA Coordinator
PREA Compliance Manager (PREA Specialist)
Interviews with Random Staff
Interviews with HR Staff at Facility and Agency Level
Shift Supervisors
Front Desk Staff

Findings

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

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

In the PAQ, MSP stated that in the past 12 months, there were 85 persons hired who may have contact with inmates who have had criminal background records checks.

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

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

During the onsite portion of the audit, thirty-six Human Resource Files were reviewed. Hiring files indicated criminal history checks had been completed on new employees but in many instances these were NOT prior to the hiring of the staff member.

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

(g) As a result of the audit, the statement that material omissions regarding such misconduct or the provision of materially false information shall be grounds for termination was added to the procedure.

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

Corrective Action: During the on-site portion of the audit, a total of 36 staff HR files were selected randomly by the auditor to be reviewed. They were selected from an Authorized FTE roster that was provided to the audit team upon entry into the facility. The files were then reviewed with HR Staff. The following deficiencies were discovered: 1. Staff were having NCIC background checks run after they had been hired and working in the facility. 2. Staff just recently signed the Acknowledgment and Disclosure Form which asks the questions outlined in section (a) of this standard. Various staff indicated that this was completed by all staff in 2016 as well, but they were not field and no one could locate the documentation and 3. When contracting prior institutional employers, there is not form or indication of completed this information, who was contacted, the date, etc. It is simply a check box that is contained within the Reference Check Form.

For the corrective action period, the facility will: 1. Ensure that HR can get NCIC/Backgrounds checks ran prior to a prospective employee beginning employment with the agency/facility. Complete/develop a process to ensure that the five year background process runs smoothly and is clear for staff; 2. Create a process to file and ensure these forms are completed timely. HR Staff had to locate staff and complete with no support for security management. It took over 4 months to gather all staff and some were still not signed. The facility will conduct an audit and ensure that all current staff have completed this form; 3. Create a new form and process to include the date, who was called and who verified.

A memo was provided to the auditor, dated July 13, 2018 which stated:

Per the MSP PREA CAP, specifically 115.17 (f), the Office of Human Resources conducts annual PREA acknowledgement and disclosure forms with every employee. This is conducted in the month of January. The tracking is simply a list of all employees currently employed at the facility that is checked off until all are complete. These forms are then reviewed by OHR staff and placed in the employee PREA file.

Per the MSP PREA CAP, specifically 115.17 (c), On June 6th, 2018, the Office of Human Resources completed a review of all employee files and ensured each file was current with background checks. These will be available for review upon the Auditor next site visit. To continue to ensure all employees

have background checks conducted within the required 5-year timeframe; the Office of Human Resources has determined to conduct checks on all employees every 4 years. The next scheduled set of background checks for all employees will begin in January of 2019.

During the self audit and review by HR, which was conducted in April, the following summary was provided to the Warden and the auditor:

TO: MSP PREA Coordinator Patrick Sheehan, MSP Interim Warden Jim Salmonsens, MSP HR Staff

FROM: Cynthia Davenport, Secured Care HR Manager

DATE: April 26, 2018

RE: PREA 2017 Action Plan Response

PREA 115.17 c.

1. *Issue: Why backgrounds were not being completed prior to hire:*

Why: On January 15, 2018 we had started a new recruitment system for CO's. It was new, the hiring managers were responsible for getting the backgrounds done, and we did not discover until the audit that the hiring managers were completing the backgrounds and making offers of employment but were not sending the backgrounds to HR for the file. Another issue discovered is if an employee quit but came back less than 3 months later a new background was not being completed.

How addressed: HR is completing all hires/offers of employment now to ensure the references and backgrounds are completed and on file prior to offers being made. HR will not authorize the hire without the background and PREA reference in hand. We have a checklist for hires that includes the PREA background and reference to ensure this occurs. (see Taleo hire form attached). We feel a tracking sheet that demonstrates employee name, date of hire, dates of each background check and reason for check (i.e. hire, promotion, transfer, 5 year) in perpetuity is not the best way to manage this, the spreadsheet would grow too large and therefore increase chance for employee error. We have created PREA folders for each employee and have a tracking sheet (attached) on the inside noting every time a background is completed and the supporting documentation will then be in the file as well.

PREA 115.17 e.

2. *Issue: Ensure backgrounds are completed on employees every 5 years.*

Why: We complete them upon hire and every 5 years in the years that are multiple of 5's. Had the PREA auditor come and looked at our PREA files she would have seen that while we missed a few we certainly tried to get them all completed. We created a spreadsheet of all employees

and checked them off when they were completed, unfortunately, a couple staff were missed at remote facilities due to HR employee error in not remembering remote locations that were under MSP supervision and therefore not putting those names on the checklist. Once we had all the backgrounds completed the checklist was destroyed. Other issues for missing background (see #1 above)

How addressed: We have corrected the employee checklist for the 5-year backgrounds to include remote locations under MSP supervision and we have addressed the other missing backgrounds and have ensured those backgrounds were completed (see #1). We conducted the last 5-year backgrounds in January of 2015 and have conducted backgrounds on all new employees and will conduct again in January of 2020. We will keep the checklists after the backgrounds are completed to verify for auditors, the backgrounds will be placed in the PREA folders for each employee and the tracking sheet in the folder will be completed.

PREA 115.17 (2)

3. Issue: 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.

Why: PREA questions were being asked from reference form but it was not documented to whom the questions were asked and if the person was a reliable reference for PREA related matters

How addressed: Those sections of the reference are now forwarded by MSP HR Staff to the PREA coordinator or other relevant personnel of the agency for whom the applicant worked for verification on a reliable source of info and for information on PREA references. If we cannot get a reference on a PREA issue from a reliable source on PREA matters the candidate will not be hired. A copy of the completed (signed and dated) reference check form for successful candidates only will be placed in the selection file and the originals in the HR file. We do not believe the form must change only the process.

PREA 115.17 (e)

4. Issue: The agency shall 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 and in any interviews or written self-evaluations conducted as part of reviews of current employees. The agency shall also impose upon employees a continuing affirmative duty to disclose any such misconduct.

5.

Why: We did this every year but were not consistent with time of year nor did we keep the tracking sheets.

How addressed: Now we will conduct the annual reviews beginning January 1 of each year through January 30 of the same year and the tracking form will be kept for PREA auditors to view.

While on-site for the second visit, the auditor spent time reviewing files in HR. The HR Manager was interviewed again as well as HR staff. They were extremely well versed in the new processes and their efforts to get compliance. Thirty one random staff names were pulled and the Documentation Review – Employee*Files/Records form on the auditor portal was utilized. All information was in the file to include the NCIC form, the training acknowledgments; the 5 years background check, when applicable, the annual disclosure, and training documents.

Based on the aforementioned reviews, the facility and agency are in compliance with this standard.

Standard 115.18: Upgrades to facilities and technologies

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

115.18 (a)

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

115.18 (b)

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

Auditor Overall Compliance Determination

Exceeds Standard (*Substantially exceeds requirement of standards*)

XXX Meets Standard (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

Does Not Meet Standard (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

Documents and Policy Reviewed

Pre-Audit Questionnaire

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

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

Onsite Observations

Cameras, placement

Master Control

Mirror placement

Building design

Interviews

PREA Coordinator

PREA Compliance Manager (PREA Specialist)

Director

Security Staff

Maintenance Staff

Findings

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

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

Corrective Action: The PAQ indicated that upgrade have been made, as per sections (a) and (b) of this standard. No documentation could be provided at the facility level indicating they considered sexual safety or included PREA in these upgrades. The PREA Coordinator (who was the Policy Administrator at that time) and her supervisor were included for policy and security purposes and with their PREA

experience they did review. However, the documentation was lacking. Interviews with the Warden, PREA Specialist and the Director designee indicated an understanding of this requirement at this time. As follow up and moving forward the PREA Coordinator emailed a statewide directive to all Administrators and Wardens that stated:

Administrators and Wardens,

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.

Also, please ensure you are meeting with the PCM for your facility on a regular basis. I recommend at least monthly. Discuss with them any PREA compliance issues they are encountering, and ensure they have the time and authority to coordinate the facility's efforts to comply with the PREA standards in accordance with Standard 115.11. I highly recommend you keep notes of these meetings.

I have copied the two applicable standards below for your review. Please let me know if you have any questions.

§ 115.11 Zero tolerance of sexual abuse and sexual harassment; PREA coordinator. (a) An agency shall have a written policy mandating zero tolerance toward all forms of sexual abuse and sexual harassment and outlining the agency's approach to preventing, detecting, and responding to such conduct. (b) An agency shall employ or designate an upper-level, agency-wide PREA coordinator with sufficient time and authority to develop, implement, and oversee agency efforts to comply with the PREA standards in all of its facilities. (c) Where an agency operates more than one facility, each facility shall designate a PREA compliance manager with sufficient time and authority to coordinate the facility's efforts to comply with the PREA standards.

§ 115.18 Upgrades to facilities and technologies. (a) When designing or acquiring any new facility and in planning any substantial expansion or modification of existing facilities, the agency shall consider the effect of the design, acquisition, expansion, or modification upon the agency's ability to protect inmates from sexual abuse. (b) When installing or updating a video monitoring system, electronic surveillance system, or other monitoring technology, the agency shall consider how such technology may enhance the agency's ability to protect inmates from sexual abuse.

Thank you,

Michele Morgenroth

Based on the aforementioned reviews, the facility and agency are in compliance with this standard.

RESPONSIVE PLANNING

Standard 115.21: Evidence protocol and forensic medical examinations

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

115.21 (a)

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

115.21 (b)

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

115.21 (c)

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

115.21 (d)

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

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

115.21 (e)

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

115.21 (f)

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

115.21 (g)

- Auditor is not required to audit this provision.

115.21 (h)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

Documents and Policy Reviewed

Pre-Audit Questionnaire

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

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

Montana Policy Directive, DOC 3.1.19, *Investigations*

Montana Policy Directive, DOC 3.1.28, *Crime Scene and Physical Evidence Preservation*

Memorandum of Understanding, Community agency Inc.

Memorandum, from PREA Coordinator

Onsite Observations

Posters

Inmate Handbook

Interviews

PREA Coordinator

PREA Compliance Manager (PREA Specialist)

Community agency Advocate and Director

YMCA Staff

Random Staff

Random Inmates

Findings

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

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

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

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

(c) MDOC Policy 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)* states that medical staff will offer assessments to all inmates involved in a sexual abuse incident without financial cost including a forensic medical examination if reported within 72 hours of the incident. The staff will, should the victim consent, immediately transport the victim to a medical facility equipped with medical personnel certified as Sexual Assault Forensic Examiners (SAFE's) or Sexual Assault Nurse Examiners (SANE's), or if none are available, to a medical facility with other qualified medical practitioners, to evaluate and treat sexual assault/rape victims.

Staff stated that there have been ten forensic medical examinations that were conducted during the past 12 months; Inmates are transported to Deer Lodge Medical Center or local area medical facilities for SANE/SAFE exams.

(d) The auditor reviewed a Memorandum of Understanding with a local rape crisis center, Community agency, to provide sexual abuse victim advocacy, which includes response to the hospital during a forensic medical exam.

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

The Memorandum of Understanding with Community agency outlines that they will provide hospital response during the forensic medical examination and shall provide emotional support, crisis intervention, information and referrals. The facility created and provides the inmates with a pamphlet entitled "End the Silence" that provides information on victim advocacy, and how to reach them. The facility has the pamphlet readily available to all inmates by placing them in all housing units and other areas.

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

(i) Community agency staff have been screened for appropriateness to serve in this role and have received education concerning sexual assault and forensic examination issues in general.

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

The Auditor received numerous phone calls and emails from staff at Community agency indicating that they are willing to come to the facility and advocate for inmates. They are unaware of why they

received this letter and unaware of any conflicts. They stated they were never trained or communicated with by the DOC so if they do something wrong they are unaware why and if it was an education issue they will address.

Corrective Action: (d) (e) The facility has been without a advocacy option for their inmate population since October. The only documentation provided to the auditor was from the week prior to the audit, whereas the Agency attempted to enter into an agreement with a new organization. For a period of five months, the facility was without an option for inmates in the event of a forensic medical examination. The facility does provide a phone number to the YMCA which provided general telephone advocacy for the inmate population and the facility also added language to posting to allow inmates to contact Just Detention International in the event that ask for or would like an advocate. These options, however, will not meet the provisions of this standard.

The Agency and Facility will continue to attempt to and provide documentation to the auditor showing their attempts to do so.

The Agency will provide the auditor with documentation into the investigation or 'cause' relating to the termination of the Community agency MOU since it appears that there is an organization who is willing to help.

In addition, while MSP attempted to enter into a new agreement, MDOC directed the facility that when they need an advocate to accompany a victim to the hospital or through the investigation process, the newly hired Department victim advocates will be utilized. They have on-call phone numbers and can be contacted 24/7 to meet staff and the victim at the hospital. It was directed for managers to make sure that appropriate staff have this information to call them when needed (i.e. post in command post, provide to any on-call staff, etc.).

The job description for this individual was included and stated:

ESSENTIAL FUNCTIONS (MAJOR DUTIES OR RESPONSIBILITIES):

- **Coordinate interagency safety planning for victims of high-risk offenders confined in MDOC facilities, county jails, or living in the community under supervision of the Department**
 - Receives and evaluates referrals from multiple sources identifying offender behavior indicating risk to victims
 - Contacts victims to assess risk and interest in services
 - Identifies specific victim needs and refers to resources
 - Provides Family Group/Team Meetings to assist in mitigating risk and reducing victim concerns
 - Convenes departmental staff, victim's support network and community team members to develop a coordinated safety plan
 - Facilitates communication among victim and team members
 - Communicates safety plan details

- Monitors implementation of plan, adjusting as needed
- Remains a member of the victim's support system throughout the offender's supervision under MDOC to include:
 - Repeat Family Group/Team Meetings as needed to support risk reduction
 - Victim Impact Statement Assistance
 - Referral to MDOC restorative justice programs for possible participation
 - Supports victim through parole and conditional release processes and as the offender's sentence discharges to ensure continuity of care
- **Collaborate with Probation and Parole Officers during the Pre-Sentence Investigation (PSI) process, the risk assessment process, the development of offender supervision plans, the conditional release process and reentry planning to ensure that information from victim(s) is appropriately considered and integrated into these processes**
 - In high-risk situations, assists with developing a relationship with the victim and assists with the victim impact statement portion of the process; or
 - Completes the PSI as determined appropriate
 - Completes risk assessment
 - Works with victim, the victim's support network, Family Group/Team Meeting members and staff to develop and coordinate a safety plan
 - Communicates with prison and community corrections staff regarding victim safety concerns and proximity issues
 - Recommends alternative offender placements as appropriate
 - Evaluates need for geographic restrictions or exceptions to release to county of origin
 - Works with staff to develop supervision conditions and compliance monitoring plans
- **Develop and maintain a network of collaborative partnerships with victim advocates, criminal justice agencies, and other community-based service providers in support of victim safety during offender reintegration into the community in high-risk situations**
 - Assesses capacity of criminal justice and social service agencies in the service area to meet the needs of crime victims
 - Participates in local networking and service coordination meetings to facilitate and develop a stronger local service network for victims as well as more efficient protocols for collaboration and referral
 - Maintains open communication and durable working relationships with local agency partners
- **Provide training to prisons, community partners, and field staff regarding Victim Services Program functions and responds effectively to the needs of crime victims**
 - Trains in academies and other settings
 - Provides in-service training to prison case managers, community corrections facilities, local Probation and Parole offices, and supervisors regarding effective responses to victims' needs and concerns

- Effectively deescalates emotionally charged victim situations, notifying appropriate parties of concerns
- Provides to crime victims: crisis counseling and intervention, follow-up counseling, personal and/or legal advocacy, order of protection assistance, victim impact statement assistance, notification registration information, information and referral, accurate and timely information to victims of crime

For the remainder of the review period, the auditor will monitor all new cases and compliance with this portion of the standard. During the review period, there were no new instances in which these services were utilized.

This advocate will accompany an inmate on any abuse case and all the subsequent steps. This is not the same as is used for general advocacy in standard 115.53.

Based on the aforementioned reviews, the facility and agency are in compliance with this standard.

Standard 115.22: Policies to ensure referrals of allegations for investigations

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

115.22 (a)

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

115.22 (b)

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

115.22 (c)

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

115.22 (d)

- Auditor is not required to audit this provision.

115.22 (e)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

Documents and Policy Reviewed

Pre-Audit Questionnaire

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

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

Montana Policy Directive, DOC 3.1.19, *Investigations*

Montana Policy Directive, DOC 3.1.28, *Crime Scene and Physical Evidence Preservation*

Onsite Observations

Interviews

PREA Coordinator

PREA Compliance Manager (PREA Specialist)

Director

Warden

Random Staff

Supervisory Staff

Local level investigators

Agency Level investigators

Findings

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

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

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

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

MSP stated that during the past 12 months there have been 40 allegations of sexual abuse and sexual harassment that were administratively investigated and ten that were criminally investigated which totals 50 that were received.

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

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

Based on the aforementioned reviews, the facility and agency are in compliance with this standard.

TRAINING AND EDUCATION

Standard 115.31: Employee training

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

115.31 (a)

- Does the agency train all employees who may have contact with inmates on its zero-tolerance policy for sexual abuse and sexual harassment? XXX Yes No

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

115.31 (b)

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

115.31 (c)

- Have all current employees who may have contact with inmates received such training? XXX Yes No
- Does the agency provide each employee with refresher training every two years to ensure that all employees know the agency's current sexual abuse and sexual harassment policies and procedures? XXX Yes No

- In years in which an employee does not receive refresher training, does the agency provide refresher information on current sexual abuse and sexual harassment policies? XXX Yes No

115.31 (d)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

Documents and Policy Reviewed

Pre-Audit Questionnaire
Montana Policy Directive, DOC 1.1.17 *Prison Rape Elimination Act of 2003 (PREA)*
Montana State Prison Operational Procedure, DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*
Prison Rape Elimination Act, PowerPoint and Lesson Plan
Contractor, Volunteer and Employee PREA Acknowledgment Form
Pre-Service Orientation, Staff Handout

Onsite Observations

File Review

Interviews

PREA Coordinator
PREA Compliance Manager (PREA Specialist)
Training Manager
Training Staff
HR Manager
Warden
Random Staff
Supervisory Staff
Non-Security Staff

Findings

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

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

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

The PAQ indicated that 688 staff employed by the facility who may have contact with inmates, were trained or retrained on the PREA Requirements above.

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

Last year the refresher training was focused specifically on how to effectively and professionally communicate with LGBTI inmates. In previous years there were various other trainings that focused on specific topics. It was not clear that all staff have received the training covered in this standard.

Staff of multiple levels, security and non-security, all indicated that they have had some training. Some staff stated that their training was before hire, some staff state that they just had to sign for policy but were not trained. In addition, in the past one year period, there has been three ways in which staff were trained. Some ways include immediately being hired and provided a short three day training whereas staff sign for policies. They then work for a few months until training can be scheduled where they go for a couple weeks then, finally, within a one year period, they attend a full academy.

Corrective Action: (d) the facility could not provide information to the auditor that showed through employee signature or electronic verification, that employees understand the training they have received. The staff does sign a sign in sheet for multiple classes but not in accordance with this procedure. The facility will create a form and require all staff being trained moving forward sign this form. It will be sent to the auditor to review. In addition, throughout all the training documentation, different titles were utilized which presented much confusion for the audit team. The recommendation is that for consistency, the facility uses the same titles and names as Central Office to avoid confusions. Some titles but no PowerPoint's or training information was available for different classes through the years entitled: New Employee Orientation, PREA Overview, Your Role in responding to Sexual Abuse, PREA Podcast, etc. Because of all the different titles and no class lesson plans or PowerPoints, the auditor cannot determine if all staff have been trained on all sections required by the standard.

During interviews with random staff, three staff indicated that they have never been trained in PREA. The audit team requesting the training files and were able to verify that the staff were in fact trained.

Throughout the course of the report, various areas where staff needed refreshers were identified. Staff expressed confusion about things such as the language line and usage, transgender and intersex searches, the investigation process, the use of segregation as it relates to cases/allegations, etc. A PowerPoint included all of these areas identified, as well as the key points identified in this standard, was created and a plan was developed to train this to all staff on all shifts. As of October 3, 2018, 81 percent of the 656 staff employed were trained. The deadline set was December 31, 2018. The facility was well ahead of schedule. During the second visit to the facility, staff spent time with those who were actually delivering the training. These staff were amazingly well versed, enthusiastic and were the perfect choice to deliver this training.

The training was entitled Key Audit Points, 2018 and included the questions that auditors would ask random staff in the form of a quiz. A one hundred percent was required to successfully pass this class. The lesson plan and test was reviewed by the audit team.

Based on the aforementioned reviews, the facility and agency are in compliance with this standard.

Standard 115.32: Volunteer and contractor training

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

115.32 (a)

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

115.32 (b)

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

115.32 (c)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

Documents and Policy Reviewed

Pre-Audit Questionnaire

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

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

DOC Policy 1.3.16, *Volunteer Services*

Volunteer/Contractor Handout

Contractor/Volunteer Acknowledgment Form

Contractor Signoff Procedure

Contractor/Volunteer Spreadsheet

Onsite Observations

Check Point Officer Station
Front Officer Desk Station
Shift Supervisors Office

Interviews

PREA Coordinator
PREA Compliance Manager (PREA Specialist)
Volunteer Coordinator
Security Staff
Front Desk Staff
Front Gate Staff
Supervisory Staff

Findings

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

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

Interviews were conducted with 3 volunteers and contractors during the on-site portion of this audit. During interviews, they acknowledged that they had received PREA training and knew of her responsibility to report all allegations of sexual abuse and sexual harassment.

The PAQ indicated that the facility has 292 volunteers and individual contractor who have contact with inmates who have been trained in agency policies and procedures regarding sexual abuse/sexual harassment prevention, detection and response.

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

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

- (b) Random samples and signature acknowledgment documentation of training was provided during the audit when requested.

Corrective Action: The training PowerPoint simply states 'PREA' but does not detail the requirements of the standard. While those interviewed were clearly aware, it would be more clear if this was clearly outlined on the slides and handouts. During interviews, there was some confusion on list, who maintains lists and who oversees compliance. The facility will create a definitive list of all certified volunteers, ensure that they all have background checks completed and verify that all have received and understand the training.

In addition, a Contractor Signoff Procedure was developed which stated:

Contractor Signoff Procedure

Definitions

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

Procedure -- Contractor Signoff

1. All service providers and contractors must receive a PREA Brochure, unless they have already received one and have signed off on the Department of Corrections Service Provider PREA Acknowledgement form. Lewistown officers will check the provided list to verify this information.
2. The admitting officer will direct the service providers and contractors they cannot be admitted until they have completed the PREA education and give the service providers and contractors enough time to read the brochure.
3. The admitting officer will have the service providers and contractors sign the Department of Corrections Service Provider PREA Acknowledgement form.
4. Once the form is signed, the service providers and contractors may proceed past the check-in desk.
5. Admitting officers will update the current list of service providers and contractors by adding (please print) the appropriate information to the list of those who have already received a brochure and signed the PREA form.
6. Admitting officers will place all Department of Corrections Service Provider PREA Acknowledgement forms in Lt. Johnson's mailbox. Lt. Johnson will be responsible for maintaining the list of service providers, contractors, and volunteers who have already received a brochure and signed the PREA form. The list will be updated on a biweekly basis.
7. If you need additional forms, contact the Training Department.

On September 20, 2018, the facility provided the auditor with a newly created spreadsheet that had 237 volunteers and contractors. While on site for the second visit, the audit team observed this at the check in gate and the front officer's station. Each staff in these locations were questioned in regards it location, its use, and what they would do if someone was not on that list and was trying to gain entry. The spreadsheet included the volunteer/contractors name, their organization affiliation, the date they were cleared for entry, whether the sign on sheet was received, and the officer/staff who completed the clearance. On this list, fifteen were randomly selected by the auditor and their documentation was reviewed to include their application, clearance form and acknowledgment for PREA training/information.

In addition, a sample training roster, dated August 30, 2018 was randomly selected. On this particular training day, 18 volunteers and contractors signed and were present.

Based on the aforementioned reviews, the facility and agency are in compliance with this standard.

Standard 115.33: Inmate education

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

115.33 (a)

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

115.33 (b)

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

115.33 (c)

- Have all inmates received such education? XXX Yes No

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

115.33 (d)

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

115.33 (e)

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

115.33 (f)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

Documents and Policy Reviewed

Pre-Audit Questionnaire
DOC 1.1.17 *Prison Rape Elimination Act of 2003 (PREA)*
Audio Combined Inmate Orientation Presentation
Spanish Poster
Memo
Inmate PowerPoint Education
Inmate Acknowledgment form
Lesson Plan
Orientation and Intake Rosters
Inmate Files

Onsite Observations

Audit team members participated in orientation
Inmate materials
File Review

Interviews

Classification Staff
Intake Supervisor
Unit Manager
PCM
PREA Coordinator
Inmates

Findings

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

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

In the Pre-Audit Questionnaire, MSP states that 1105 inmates were admitted into the facility in the past twelve months and that all 1105 inmates received the information.

MSP provided no documentation to demonstrate compliance with this subsection of the standard in the pre-audit documentation. While onsite, the audit team obtained a copy of the inmate handbook,

posters and video. The orientation presentation only addresses offender reporting and does not address, zero tolerance as of the time of the initial audit. The facility corrected this, added the correct language and forwarded to the auditor.

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

MSP provided no documentation to demonstrate compliance with this subsection of the standard. MSP provided an Audio Combined Inmate Orientation Presentation, when is the audio presentation played for the offender. The orientation presentation only addresses offender reporting but does not address, the offender’s right to be free from sexual abuse and sexual harassment or free from retaliation for reporting such incidents.

(c) MSP provided no documentation to demonstrate compliance with this subsection of the standard. PROVIDED.

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

MSP provided no documentation to demonstrate compliance with this subsection of the standard. MSP provided a Spanish Brochure.

(c) DOC 1.1.17 *Prison Rape Elimination Act of 2003 (PREA) page 8* states “The program or facility will maintain documentation of offender participation in PREA education session and have offenders sign the Offender PREA Acknowledgment form.”

(d) DOC 1.1.17 *Prison Rape Elimination Act of 2003 (PREA) page 8* states “The program or facility will ensure that the PREA information is continually and readily available or visible to offenders through posters, offender handbooks, or other written formats.”

Corrective Action: The auditor randomly selected 50 inmates’ files to review off of an inmate roster that was provided to the audit team, upon arrival at the facility. Once reviewing files, it was found that no inmate education information was located inside the files. The PREA Coordinator contacted the Supervisor of the Intake Unit to determine where these are kept. The Supervisor brought over a binder of all inmate education acknowledgments. However, these were in order by approximate date and not by offender name, which made it very difficult to locate those that were randomly selected. Further, no copies were made and these were in original form. The auditor expressed concerns that if something happened to this binder, that all education information would be lost for the entire inmate

population. Lastly, there was no tracking mechanism to ensure that no inmate is missed in this process. If an inmate went directly to a unit and was not housed in the intake pod, there was no training being offered. The facility will train all unit staff so as to not rely on one singular person to complete this task, will send documentation of this training to all required staff, and forward new intake educations to the auditor on a bi-weekly basis.

It was also recommended that the form that the inmate signs include the exact language of the standard. The current form is a table on facility letter head that only has the inmates last name, A/O number, date and a signature/initial block. It is not signed by the inmate and appears to only be signed by the same staff member.

Based on the aforementioned reviews, the facility and agency are in compliance with this standard.

Standard 115.34: Specialized training: Investigations

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

115.34 (a)

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

115.34 (b)

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

115.34 (c)

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

115.34 (d)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

Documents and Policy Reviewed

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

Interviews

PREA Coordinator
PREA Compliance Manager (PREA Specialist)

Findings

- (a) MDOC Policy 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)* stated that administrative investigations will be conducted in accordance with DOC 1.3.13 *Administrative Investigations*; individuals assigned to conduct administrative investigations will work in cooperation with the

Office Human Resources and be trained in all specialized investigative training topics relevant to confined settings.

A criminal investigator and an administrative investigator were interviewed as part of the audit process and each stated they received the training.

(b) The training provided to staff is training that is available through the National Institute of Corrections and includes all the training topic including techniques for interviewing sexual abuse victims, proper use of Miranda and Garrity warnings, sexual abuse evidence collection in confinement settings, and the criteria and evidence required to substantiate a case for administrative action or prosecution referral.

(c) Training rosters were provided as documentation to show eleven investigators received training. The PAQ, however, states that there is 18 trained investigators.

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

Corrective Action: While reviewing these standards, the audit team requested a list of all investigators both at the facility and agency level. There was no definitive log or tracking mechanism for these trainings. MDOC is providing additional training, which was planned prior to the audit, and will provide a comprehensive list of all investigators and the current training documentation of completion.

The facility conducted a PREA administrative investigations training at MSP. The auditor reviewed the training rosters and the PowerPoint for this training to ensure it included all elements as required by the standard.

Fifty-three staff attended the training and are able to conduct facility level investigations at this time. All documents were sent to the auditor to review.

Based on the aforementioned reviews, the facility and agency are in compliance with this standard.

Standard 115.35: Specialized training: Medical and mental health care

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

115.35 (a)

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

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

115.35 (b)

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

115.35 (c)

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

115.35 (d)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

Documents and Policy Reviewed

Pre-Audit Questionnaire

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

Memo from the PREA Coordinator
Medical and Mental Health Staff Training Roster
Lewistown press release and memos
Memos
Rosters of staff
Certificates

Onsite Observations

File review

Interviews

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

Findings

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

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

(c) Training rosters were provided as documentation that medical and mental health providers have received the specialized training. The PAQ states that 74 medical and mental health staff have been trained. The roster provided includes 76 staff members.

(d) MSP staff state that contractors and volunteers that are medical and mental health care practitioners also receive the training mandated for employees under 115.31 and 115.32, depending upon the practitioner's status at the agency. A contracted nurse did indicate she had received contractor basic PREA training.

Corrective Action: While onsite, the audit team asked for a list of all medical and mental health staff. The numbers did not match the numbers previously provided on the PAQ. In addition, not all staff had certificates. The list had 70 staff total, of that 34 had certificates from NIC and the rest did not. In the

stack of certificates there were additional certificates for staff who were not on the list of current employees. For corrective action, the auditor would like clear numbers, a clear list and certificates for current staff only.

By the second visit, the facility was able to provide a comprehensive list of all medical and mental health staff. This list also included the vacancies. All staff on this list were trained in the specialized training through NIC. The certificates were reviewed by the audit staff. In addition, all medical and mental health staff received the general PREA training as well.

Based on the aforementioned reviews, the facility and agency are in compliance with this standard.

SCREENING FOR RISK OF SEXUAL VICTIMIZATION AND ABUSIVENESS

Standard 115.41: Screening for risk of victimization and abusiveness

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

115.41 (a)

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

115.41 (b)

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

115.41 (c)

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

115.41 (d)

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

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (2) The age of the inmate? XXX Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (3) The physical build of the inmate? XXX Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (4) Whether the inmate has previously been incarcerated? XXX Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (5) Whether the inmate's criminal history is exclusively nonviolent? XXX Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (6) Whether the inmate has prior convictions for sex offenses against an adult or child? XXX Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (7) Whether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming (the facility affirmatively asks the inmate about his/her sexual orientation and gender identity AND makes a subjective determination based on the screener's perception whether the inmate is gender non-conforming or otherwise may be perceived to be LGBTI)? XXX Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (8) Whether the inmate has previously experienced sexual victimization? XXX Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (9) The inmate's own perception of vulnerability? XXX Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (10) Whether the inmate is detained solely for civil immigration purposes? XXX Yes No

115.41 (e)

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

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

115.41 (f)

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

115.41 (g)

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

115.41 (h)

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

115.41 (i)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

Documents and Policy Reviewed

Pre-Audit Questionnaire

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

PREA: Risk Assessment

Inmate Handbook

Memo

Rosters

Training PowerPoint

Training Rosters

Onsite Observations

Inmate Files and Mini Files were reviewed

Intake process

Interviews

Classification Staff

Intake Staff

Unit Manager

PCM

PREA Coordinator

Findings

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

On the first site visit, MSP did not provide samples of intake screenings to be reviewed. Samples were reviewed during the second visit and were mailed to the auditor during the review period.

- (b) And

(c) MSP utilizes a PREA: Risk Assessment Tool. This tool was review by the audit team and is objective.

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

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

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

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

The predator factors include

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

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

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

answer or for not disclosing complete information in response to, questions asked during screening or reassessment”

- (g) During this initial review, this could not locate in policy that an inmate will be reassessed based on a referral. The auditors requested samples where a referral, request, incident of sexual abuse, or new information was received was completed and the inmate reassessed.

The facility has since added this to procedure and retrained all staff. Samples were sent to the auditor to review.

- (h) DOC 1.1.17 *Prison Rape Elimination Act of 2003 (PREA) page 3 states* “Risk assessments of all offenders through the use of an objective screening instrument for victimization or abusiveness will take place within 72 hours of intake into a facility or program. Reassessment will occur with within 30 days of intake into a facility or program and when warranted thereafter based on any new information. Offenders will not be disciplined for refusing to answer or for not disclosing complete information in response to, questions asked during screening or reassessment”
- (i) During the initial review on-site, the process was unclear as to who completes each screening and files the documentation. In addition, since the files were spread out into two locations, staff were not always able to locate the information and, therefore, could not ensure its privacy and need to know based on who was viewing this sensitive information.

Corrective Action: While onsite, the auditor selected 50 inmate files to be reviewed. The files were brought to the auditor from the records department. While reviewing the first few files, no screening documentation could be found in the files. After additional staff met with the audit team, it was discovered that there were two sets of inmate files, an official file and a mini file. When the mini files were brought to the auditor, for the same fifty inmates, the auditor compared the first assessment, presumably the 72 hour intake screening, and it was not in line with the intake date. The first inmate reviewed was actually in a county jail for the date he and a case manager signed his assessment. Two members of the audit team then began to go through a few additional files. There was extreme confusion, lack of organization and consistency in the files. The audit members could not complete this portion of the audit.

The facility will develop a process to determine:

1. Who will complete screenings of inmates who enter the MDIU intake unit
2. Who will complete screenings of inmates who do not go into the MDIU unit, as it appears that they are not being screened
3. Where these documents will be filed and assessable to staff as per standard 115.42 below, to determine housing, programming, etc.

4. Retrain all staff

The process was developed and sent to the auditor to review. It was as follows:

PREA Risk Assessment and Referral Protocol

1. 72-hour initial assessments

A. Offenders admitted during normal operating hours (M-F 0630 to 1630)

1. Within 72 hours of admission to a secure facility, each inmate will be provided an initial PREA Risk Assessment as part of the admissions process. Staff should attempt to complete this assessment within 48 hours of admission.
2. Each inmate will be escorted by staff to the admission screening room.
 - a. No other inmates or staff shall be present when conducting a PREA risk assessment
3. Staff will verify that the name and AO of the offender is correct on the form.
4. Staff will begin the assessment by introducing themselves and state to the inmate the intended purpose of the assessment.
5. Staff will proceed with the assessment, beginning with question #1 and ending with question #11, following the assessment in numerical order.
6. Staff must ask all 11 questions and mark an appropriate response on the risk assessment form.
7. Offender responses will be recorded on the assessment form by the staff member.
8. Offenders are not allowed to fill out the form themselves and all questions must be asked by the staff member.
9. All sections of the assessment will be filled out legibly and with complete information (i.e. first and last names, full date with year)
10. Offenders may ask follow up questions to find clarification however staff must mark an appropriate box (yes or no) to all the questions.
11. Assessing staff will review any relevant documentation available to verify the offender's responses.
12. If the offender does not answer with a definitive yes or no, then staff will review documentation to assess the correct answer.
13. Offenders will not be disciplined or punished for refusing to answer.
14. If the offender refuses to sign their name, the staff member will note that on the PREA assessment form and have another staff member sign the form to verify the refusal.
15. If the offender refuses to participate in the assessment, staff will use information available to complete the assessment to the best of their ability.

16. If the offender provides information or responses that are found to be untrue, staff will use all information available to them and document where the correct information was located to verify the question.
17. Offenders that are on a suicide watch, Behavior Modification Plan or are mentally incapacitated, the offender will not be subjected to a PREA risk assessment. If this occurs staff must provide notes on the risk assessment form and SharePoint with details of the situation and must conduct an assessment when the offenders mental state is appropriate.
18. Offenders that are direct commits to locked LHU (Locked Housing Units I or II) will be the responsibility of the offenders Locked Housing Unit Case Manager and Unit Manager and will be assessed as a new admission.
19. Offenders that are direct commits to the infirmary that require an assessment will be the responsibility of Admissions and will be assessed as a new admission.

B. Scoring the 72-hour assessment

1. If the offender provides a **Yes answer to questions # 1** in the possible victim's factors, the offender will be scored as a **known victim**.
2. If the offender answers **yes to three (3) or more questions, not including #1**, then the offender will be scored as a **potential victim**, otherwise the offender will be scored as a **non-victim**.
3. If an offender provides a **yes answer to question #1** in the possible predator factors, the offender will be scored as a **known predator**. If identified as a known predator, staff must offer a mental health referral to the offender, have the offender sign, full date and initial yes or no.
4. If the offender provides a yes If the offender answers **yes to three (3) or more of the questions, not including #1** in the possible predators' factors, the offender will be scores as a **potential predator**, otherwise the offender will be scored as a **non-predator**.
5. If the offender answers yes to **either #1 or #2 of the possible victim factors or the possible predatory factors**, the staff must ask the offender if the offender would like to be referred to Mental Health for follow up.
6. If an offender answers yes to question #8, staff should ask if the offender is transsexual or an intersex offender and make a note of which the offender states.
7. If the offender requests a mental health referral, the interviewing staff will have the offender sign their name, fill in the complete date, and initial the "yes" box.
8. If the offender refuses a Mental Health referral the staff will have the offender sign their name, fill in full date, and initial the "no" box.
9. If the offender refuses to sign their name, the staff member will note that on the PREA assessment form and have another staff member sign the form to verify the refusal.
10. The staff member who conducted the assessment, will forward a copy of the assessment and the PREA Mental Health Referral Form, to the Mental Health

Department and notify via email the following staff of the need for mental health follow up.

- i. MSP Mental Health Supervisors and Mental Health Admin Assistant
 - ii. MDIU Unit Manager and Admissions Manager
11. The staff member who conducted the assessment will upload the initial assessment into SharePoint for each offender by the end of their shift.
 12. The staff member who conducted the assessment **will also provide a chrono entry on any identified victim/predator into OMIS 3.0 under the Special Management section**, so the information is available to other staff when considering housing designation, programming, or other assignments. Copies of the assessment must be filed in the offenders 6 part unit file (mini file).

C. Staff conducting 72-hour initial PREA Assessment

1. Admissions Manager will be the primary staff responsible for conducting the initial PREA Risk Assessment.
2. If the Admissions Manager is absent, the Admissions officers, who are trained to conduct the PREA assessment, will be responsible for conducting a 72-hour initial PREA assessment on the offender.

D. Offenders being admitted after normal operating hours (Weekends, holidays, or late arrivals)

1. As part of the cell compatibility duties, MDIU Unit Sergeants will be required to conduct an initial PREA assessment in the manner described above on all offenders being admitted to MSP on weekends, holidays or other admits outside Admissions normal operating hours.
2. If the supervising staff member is not trained to conduct a PREA risk assessment, the offender will be housed in a single cell until the offender can be assessed for risk. This may require in house moves to assign a single cell and the offender must be assessed within 72 hours of admittance.
3. All incoming inmates will be housed in a single cell until the offender has been assessed with a 72-hour initial PREA assessment
4. If no single cells are available, the unit sergeant may adjust offender housing assignments.
5. Once assessed only offenders that score **non-victim or non-predator** will be allowed to be housed with an offender that has not been assessed.
6. If the offender scores as the following they will remain in a single cell until an appropriate cell assignment is located.
 - i. Known victim
 - ii. Potential victim
 - iii. Known predator

iv. Potential Predator

7. Unit Sergeant will email the count office and admission staff the final cell placements so that the admission staff can modify the daily intake list to reflect the final housing assignment and count office can update the offenders housing in OMIS.
8. Unit Sergeant will then send the PREA assessment to the Admissions Manager for uploading into SharePoint and will provide a chrono entry in OMIS 3.0 under the Special Management section.
9. If the offender answers yes to either question #1 or #2 of the possible victim section, the **staff must ask the offender** if the offender would like to be referred to Mental Health for follow up
 - i. Have the offender sign, date, and initial the PREA form.
 - ii. Complete the Mental Health PREA Referral Form.
 - iii. Send an email with the referral form to the following staff for follow up
 1. Mental Health Supervisors and Mental Health Admin Assistant
 2. MDIU Unit Manager and Admissions Manager
 3. PREA Compliance Monitor
 4. If deemed emergent by staff, staff will contact Command Post to request that the on call mental health staff member meet with the offender prior to the 14 days follow up period.

E. Inmates returning from Regional Contract Facilities (MDIU or directly to another unit) will be considered new admission for PREA assessment purposes.

1. Upon offender's admittance to a housing unit from a regional facility will be the responsibility of the unit case manager to assess each offender. Each offender must be provided the following;
 - i. PREA brochure "End the Silence"
 - ii. PREA 72-hour Risk Assessment (face to face assessment)
 - iii. Department of Corrections Offender PREA acknowledgement form for signature
 - iv. All inmates being returned to MDIU will be assessed by Admission staff if arrival occurs during normal operating hours.
 - v. If the offender arrives on weekends, holidays or afterhours, the receiving unit must assess the offender as described in section E.

F. 30-day follow up assessments

1. MDIU Case Managers will be responsible for 30 days follow up PREA assessments are being completed in a timely and consistent manner in conduction with their duties of classifying the incoming inmates.

2. Case Managers in housing units other than MDIU will be responsible for completing the 30 day follow up assessment if the offender is being housed in their unit at the appropriate time for assessment.
3. MDIU UMT will maintain a tracking form that will identify those offenders that need a 30 day follow up assessment prior to completing the offender's classification. This form will be maintained both at MDIU and Share point.
4. 30 day follow up assessments will be conducted in a private area that will ensure privacy for the completion of the assessments.
5. Staff will verify that the name and AO of the offender is correct on the form.
6. Offender responses will be recorded on the assessment form by the staff member.
7. Offenders are not allowed to fill out the form themselves and all questions must be asked by the staff member.
8. All sections of the assessment will be filled out legibly and with complete information (i.e. first and last names, full date with year)
9. Offenders may ask follow up questions to clarify however staff must mark an appropriate box (yes or no) to all the questions.
10. Staff will begin the assessment by introducing themselves and state to the inmate the intended purpose of the assessment.
11. Staff will proceed with the assessment, beginning with question #1 and ending with question #11, following the assessment in numerical order.
12. Staff must ask all 11 questions and mark an appropriate response on the risk assessment form.
13. Assessing staff will review any relevant documentation available to verify the offender's responses.
14. If the offender does not answer with a definitive yes or no, then staff will review documentation to assess the correct answer.
15. Offenders will not be disciplined or punished for refusing to answer.
16. If the offender refuses to sign their name, the staff member will note that on the PREA assessment form and have another staff member sign the form to verify the refusal.

G. 30-day assessment scoring

1. If the offender provides a **Yes answer to questions # 1** in the possible victim's factors section, the offender will be scored as a **known victim**
2. If the offender answers **yes to three (3) or more questions, not including #1**, then the offender will be scored as a **potential victim**, otherwise the offender will be scored as a **non-victim**.
3. If an offender provides a **yes answer to question #1** in the possible predator factors, the offender will be scored as a **known predator**. Staff must offer a mental health referral if scored as **known predator**.

4. If the offender provides a yes If the offender answers **yes to three (3) or more of the questions, not including #1** in the possible predatory factors section, the offender will be scores as a potential predator, otherwise the offender will be scored as a non-predator.
5. If the offender answers **yes to either #1 or #2** of the possible victim factors or the possible predatory factor section, the **staff must ask the offender** if the offender would like to be referred to Mental Health for follow up.
6. If the offender request mental health referral, the interviewing staff will have the offender sign their name, fill in the complete date, and initial the “yes” box.
7. If the offender refuses a Mental Health referral the staff will have the offender sign their name, fill in full date, and initial the “no” box.
8. If the offender refuses to sign their name, the staff member will note that on the PREA assessment form.
9. The staff member who conducted the assessment, will forward a copy of the assessment and the PREA Mental Health Referral Form, to the Mental Health Department and notify via email the following staff of the need for mental health follow up.
 - i. MSP Mental Health Supervisors and Mental Health Admin Assistant
 - ii. Unit Manager and Chief of Case Management
10. The staff member who conducted the assessment will upload the initial assessment into SharePoint for each offender by the end of their shift.
11. The staff member who conducted the assessment **will also provide a chrono entry on any identified victim/predator into OMIS 3.0 under the Special Management section**, so the information is available to other staff when considering housing designation, programming, or other assignments.
12. At the end of conducting the assessment Case Managers will consider the assessment when determining a housing assignment and uploading of the document into SharePoint as well as any relevant chrono entry into OMIS 3.0. Copies of the assessment must be made available for the 6-part unit file(mini file).

H. Auditing process

1. All 72-hour initial assessments in MDIU will be reviewed by the Unit Manager to ensure that the 72-hour assessment requirement is being met. These will be reviewed at 48 hours and it should be completed within 48 hours of admittance. Any assessments not completed by 48 hours will require a notification to the Admissions Manager for follow up and completion
2. 30-day follow up assessments will be reviewed by the appropriate Unit Manager to ensure the 30 day requirement is being met and the assessment will be reviewed at 20 days. Any assessments not completed by 20 days will require a notification to the unit case manager and Chief of Case Management to have the assessment completed within

the 30-day period. All Unit Managers will be responsible for the tracking and completion of assessments and Mental Health Referrals within their respective units. If an assessment is not completed within 30 days staff will need to document in SharePoint, the reason for the missed assessment and note on the assessment the reason for missed assessment.

3. MSP Mental Health Director will review all Mental Health Referrals to ensure they are being completed within the 14 days requirement. Any referrals not completed at 10 days will require an email notification to the PREA Compliance Manager, Associate Warden of Housing and the appropriate Unit Manager for completion.
4. The PREA Compliance Manager will review all assessments and mental health referrals monthly. Any assessment or mental health referrals that are not completed within the appropriate guidelines, this may be addressed through the disciplinary process.

The facility began, in July, to send the auditor bi-weekly summaries of all intakes and subsequent documentation (as it related to other standards as well). The auditor looked for the clear process and the assurance that the 72 hour, initial screening and the follow up, 30 day screening, were completed. The spreadsheet would include all recent intakes, the inmates name and number, the intake date, the initial screening date, the second screening date, identified if they were answered yes to specific questions requiring follow up, whether that follow up with mental health was accepted or declined, and the staff member who completed this follow up. From this list, the auditor would randomly select inmate's names and ask to see the complete documentation.

While on the second visit, the auditor collected a complete intake packet from the intake and screening staff. This packet included the PREA Risk Assessment, Admissions information, disclosure and consent forms, receiving questionnaire, prison intake assessment tool, STG questionnaire, and an offender PREA Acknowledgment. The PREA Risk Assessment for now has a place for an inmate signature and date. In addition, Yes answers, to the questions identified above, prompts the following statement:

Referral to Mental Health: Inmate Please Initial Yes or No

Mental Health personnel must meet with the referred inmates within 14 days

Date mental health met with the inmate: _____

Name of mental health personnel who met with the inmate : _____

Based on the aforementioned reviews, the facility and agency are in compliance with this standard.

Standard 115.42: Use of screening information

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

115.42 (a)

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

115.42 (b)

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

115.42 (c)

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

115.42 (d)

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

115.42 (e)

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

115.42 (f)

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

115.42 (g)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

Documents and Policy Reviewed

Pre-Audit Questionnaire

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

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

Montana State Prison Operational Procedure 3.1.17A, *Searches*

Montana Policy Directive, DOC 3.1.17, *Searches and Contraband Control*

Montana Policy Directive, DOC 3.1.21, *Inmate Count and Supervision*

Montana State Prison Operational Procedure, 3.4.102, *Unit Rules*

Montana State Prison Operational Procedure, 4.4.1, *Inmate Hygiene, Clothing & Linen Supplies*

Cross Gender Supervision PowerPoint and Lesson Plan

Cross Gender Supervision Handout

Onsite Observations

Interviews

PREA Coordinator

PREA Compliance Manager (PREA Specialist)

Findings

Corrective Action: While onsite, the auditor selected 50 inmate files to be reviewed. The files were brought to the auditor from the records department. While reviewing the first few files, no screening documentation could be found in the files. After additional staff met with the audit team, it was discovered that there were two sets of inmate files, an official file and a mini file. When the mini files were brought to the auditor, for the same fifty inmates, the auditor compared the first assessment, presumably the 72 hour intake screening, and it was not in line with the intake date. The first inmate reviewed was actually in a county jail for the date he and a case manager signed his assessment. Two members of the audit team then began to go through a few additional files. There was extreme confusion, lack of organization and consistency in the files. The audit members could not complete this portion of the audit. If it was this difficult to find the information for the audit team, it is evident to the auditors that the information cannot be used as required by the standard.

The facility will develop a process to determine:

1. Who will complete screenings of inmates who enter the MDIU intake unit
2. Who will complete screenings of inmates who do not go into the MDIU unit, as it appears that they are not being screened
3. Where these documents will be filed and assessable to staff as per standard 115.42 below, to determine housing, programming, etc.
4. Retrain all staff

- 5. Ensure staff are aware how to access and utilize this information for the safety of the inmate population.

The facility will forward to the auditor bi-weekly tracking of all new intakes and screening forms for these individuals to ensure it is completed regularly. In addition, the new process and training will be forwarded to the auditor.

The facility forwarded to the auditor a new process of conducted Transgender or Intersex inmate 6-month wellness checks.

The form includes:

Inmate's Name _____ AO# _____

Inmate Section:

Please specify current gender identity? _____

Do you feel safe to shower? Yes/ No

Do you feel safe in the unit? Yes/ No

Do you know how to report issues at this facility? Yes/ No

Do you have any other concerns related to your safety? If yes, please explain. Yes/ No

Inmate Signature:

_____ Date: _____

Unit Staff Section:

Source:

Reports of harassment during assessment period Yes/ No _____

Reports of housing issues during assessment period Yes/ No _____

Specific concerns:

The facility forwarded ten (10) samples of these checks and subsequent documentation that the information is utilized for different needs to include showers, housing and programming.

Based on the aforementioned reviews, the facility and agency are in compliance with this standard.

Standard 115.43: Protective Custody

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

115.43 (a)

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

115.43 (b)

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

115.43 (c)

- Does the facility assign inmates at high risk of sexual victimization to involuntary segregated housing only until an alternative means of separation from likely abusers can be arranged? XXX Yes No

- Does such an assignment not ordinarily exceed a period of 30 days? XXX Yes No

115.43 (d)

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

115.43 (e)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

Documents and Policy Reviewed

Pre-Audit Questionnaire

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

Montana State Prison Operational Procedure, DOC 3.5.1, *Locked Housing Unit Operations*

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

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

Montana State Prison Operational Procedure, MSP 4.2.1, *Offender Classification System*

Montana State Prison Operational Procedure, MSP 4.2.2, *Special Needs Offenders*

Locked Housing Status Review Plan

Onsite Observations

Interviews

PREA Coordinator

PREA Compliance Manager (PREA Specialist)
Segregation Staff
Intermediate and Higher Level staff interviews
Warden
Classification Managers

Findings

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

Montana DOC Policy DOC 4.2.2., *Special Needs Offenders* outlines the housing of vulnerable and predatory offenders. It states that the facility/program administrator will establish procedures to ensure offenders identified with a high risk of sexually assaultive behavior and those who are at risk for sexual victimization are assessed by a mental health or other qualified professional and are monitored.

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

The assessments document the basis for the facilities concern for the inmate's safety and the reason why no alternative means of separation could be made.

Based on the aforementioned reviews, the facility and agency are in compliance with this standard.

REPORTING

Standard 115.51: Inmate reporting

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

115.51 (a)

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

115.51 (b)

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

115.51 (c)

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

115.51 (d)

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

Auditor Overall Compliance Determination

Exceeds Standard (*Substantially exceeds requirement of standards*)

XXX Meets Standard (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

Does Not Meet Standard (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

Documents and Policy Reviewed

Pre-Audit Questionnaire

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

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

Memo to the Auditor

Montana Policy Directive DOC 1.1.2, *Policy Management Directive*

Onsite Observations

Based on interviews with inmates and while onsite testing of the phone lines was completed, it was seen by the auditors that inmates still needed to enter their PIN numbers to access the reporting line. The Auditor and team questioned the staff as to ensure that inmates could remain anonymous if they request since they state the calls are unmonitored. The facility provided a phone system print out which does not list the inmate numbers or PINs attached to any call to the hotline number of 1-800-483-7858. However, it does show the unit name, number and time which could allow the facility to match the camera to who is on the call.

Interviews

PREA Coordinator

PREA Compliance Manager (PREA Specialist)

Random Staff

Random Inmates

Findings

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

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

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

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

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

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

(d) MSP Operating Procedure, 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)* states that staff can privately report sexual abuse and sexual harassment to the PREA Specialist and Office of Human Relations. All staff interviewed were aware of this requirement.

Corrective Action: The facility provided documentation to the auditor of the recent switch in the phone service provider and difficulties they had self identified with this line. To ensure that the system is now working as required, the facility will add regular checks of the phone system to the facility compliance plan. Copies will be provided to the Auditor.

A review of the FAQ was completed with the auditor and the PREA Coordinator and while this system has had some difficulties, the FAQ states that "accordingly, so long as the avenues for external reporting provides all inmates access to an external reporting entity allowing inmates to communicate in a manner that does not reveal the substance of the communication to agency or facility officials, and safeguards to the greatest extent possible the fact that the inmate utilized such mechanism.

Based on this information, the facility will continue to work to improve the mechanisms and channels.

Based on the aforementioned reviews, the facility and agency are in compliance with this standard.

Standard 115.52: Exhaustion of administrative remedies

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

115.52 (a)

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

115.52 (b)

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

115.52 (c)

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

115.52 (d)

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

115.52 (e)

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

115.52 (f)

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

115.52 (g)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

Documents and Policy Reviewed

Pre-Audit Questionnaire
Montana Policy Directive, DOC 1.1.17 *Prison Rape Elimination Act of 2003 (PREA)*
Montana State Prison Operational Procedure, DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*
Montana Policy Directive, DOC 3.3.3, *Offender Grievance Program*
Montana State Prison Operational Procedure, 3.3.3, *Inmate Grievance Program*
Grievance Form

Onsite Observations

Inmate Handbook

Interviews

PREA Coordinator
PREA Compliance Manager (PREA Specialist)
Grievance Officer
Unit Staff
Correctional Officers
Random Inmates
Random Staff
Warden

Findings

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

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

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

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

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

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

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

The facility stated that there were sixteen grievance that were filed in the past 12 months alleging sexual abuse and in both cases a decision on the merits of the grievance was made within 90 days after being filed.

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

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

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

d. if the offender declines to have the request processed on his or her behalf the facility will document the offender's decision.

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

a. the grievance, or any portion thereof that alleges the substantial risk of imminent sexual abuse, will immediately be forwarded to a level of review at which immediate corrective action may be taken;

b. an initial response will be provided within 48 hours;

c. a final decision will be made within five calendar days; and

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

An interview with the facility grievance coordinator indicated a good understanding of this standard. The grievance officer provided a log of all PREA related grievances. The PAQ indicated that there was 16 grievances that alleged sexual abuse.

Based on the aforementioned reviews, the facility and agency are in compliance with this standard.

Standard 115.53: Inmate access to outside confidential support services

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

115.53 (a)

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

115.53 (b)

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

115.53 (c)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

Documents and Policy Reviewed

Pre-Audit Questionnaire
Montana Policy Directive, DOC 1.1.17 *Prison Rape Elimination Act of 2003 (PREA)*
Montana State Prison Operational Procedure, DOC 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)*
Handout, End the Silence
Memo, Community agency Inc.
Emails
Memo

Onsite Observations

Interviews

PREA Coordinator
PREA Compliance Manager (PREA Specialist)
Rape Crisis Center Advocates
Inmate Interviews
Unit Staff
Intake Staff
Director
Quality Assurance Director

Findings

- (a) MSP Operating Procedure 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)* states that mental health staff (or the Command Post in the event mental health staff is unavailable) will complete an *Emergency Interview Questionnaire Form* (attachment J) for all parties involved and that services may include providing inmates with access or contact information to outside victim advocates for support services related to sexual abuse. The questionnaire was reviewed and did not include information on providing advocacy to the inmates, although an interview with mental health staff did indicate that she was aware of her ability to provide an inmate the information.

MSP has a Memorandum of Understanding (MOU) with Community agency, which is an outside victim advocacy center. The MOU outlines that MSP will provide inmates with mailing addresses and telephone numbers, at no cost and that MSP will respect confidential, 24-hour access to the Community agency rape crisis hotline and through the prison's mailing system.

The facility entered into a corrective action period and was required to provide inmates with information on victim advocacy. The facility created a pamphlet titled "End the Silence" that provided information on victim advocacy, and how to reach them. The facility will have the pamphlet readily available to all inmates by placing them in all housing units and other areas.

- (b) There was no indication that the facility informs 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. The facility included this information in the pamphlet that was created that will be readily available to inmates.

- (c) MSP has entered into an MOU with Community agency to provide inmates with confidential emotional support services related to sexual abuse. The MOU was reviewed by the auditor.

Corrective Action: A memo was provided to the auditor dated October 20, 2017 which was signed by the Staff Attorney for the Department of Corrections. It was addressed to the Liaison for Community agency and stated "This letter serves as written notice to Community agency, Inc that the Department of corrections hereby terminates for cause, effective immediately, the MOU between the Department and Community agency, Inc dated October 11, 2017". In addition, a memorandum was addressed to this Auditor detailing the reason for this action, dated January 9, 2018. At this time, there is no advocate available for this facility for in person advocacy (REWORD). In addition, due to the changes in the phone numbers and reporting mechanisms, there is confusion as to what the level of confidentiality of these mechanisms.

The Agency changed and entered into a new MOU with the YWCA to help provide confidential support services. The MOU states:

PURPOSE

This memorandum of understanding (MOU) between the MONTANA DEPARTMENT OF CORRECTIONS (MDOC) and YWCA MISSOULA (YWCA), is entered into in order to provide an additional means to report allegations of sexual abuse and sexual harassment in confinement, and provide inmate access to outside confidential support services as required by the *Prison Rape Elimination Act* (PREA) (42 U.S.C. 15601ff; 2003) and the *Prison Rape Elimination Act* final rule (28 C.F.R. Part 115; 2012).

Part 1:

For the purpose of providing a method of reporting allegations that are outside of MDOC (28 C.F.R Section 115.51) as described above, each party agrees to perform the following duties:

MDOC will:

- Ensure that all Offenders in confinement facilities within the designated service area receive PREA information including, but not limited to:
 - How to report incidents or suspicions of sexual abuse or sexual harassment;
 - The telephone number of the hotline operated by YWCA.
 - The YWCA mailing address for offenders with restricted phone privileges.
- Provide YWCA with a current and comprehensive list of confinement facilities within the designated service area including contact information, and update the list as necessary.
- Receive and document all reports from YWCA, and
 - Notify the proper DOC authorities;
 - Inform all non-DOC authorities as necessary; and
 - Handle all necessary law enforcement notifications and referrals.
- Collect, analyze, review, and report incident-based and aggregate data received from YWCA.
- Provide training on a regular basis to YWCA staff and volunteers.
- Provide technical assistance, guidance, and support to YWCA staff and volunteers on an ongoing basis.
- Provide YWCA with reporting procedures, report templates and forms, and appropriate contact information to ensure proper and timely notification of all PREA calls received on the YWCA hotline.

YWCA will:

- Provide 24-hour hotline, crisis intervention, and referral and support services to victims of sexual abuse in confinement facilities within the designated service area.

- Notify MDOC's PREA Coordinator via email immediately of any case reported on the hotline.
- Receive reports via letter from offenders who are not allowed phone access due to a disciplinary status and forward any letters received to the MDOC PREA Coordinator.
- Use the information provided by MDOC to refer offenders who call the hotline from out of the designated service area to appropriate authorities.

Part 2:

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

MDOC will:

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

YWCA will:

- Provide confidential emotional support services and crisis intervention contacts to victims of sexual abuse residing in MDOC facilities, as resources allow.
- Screen the individuals providing support services to inmate victims of sexual abuse or sexual assault, for appropriateness to serve in that capacity. No YWCA employee who has a felony criminal record or a felony or misdemeanor conviction for exploitative offenses against vulnerable victims, may have any role in relation to this Memorandum of Understanding or in providing services to MDOC inmates.

- Maintain records showing satisfactory proof of its due diligence in regard to #2 and provide copies of same to MDOC upon request.
- Comply with all MDOC policies and procedures regarding correspondence, and the inmate telephone and financial systems. Policies and procedures will be provided to the YWCA upon request.
- Maintain confidentiality of communications with inmates.
- Communicate any questions or concerns to MDOC.
- Forward any new allegations of abuse in accordance with state law and Part 1 of this agreement.

For the purposes of legal compliance, both parties understand and agree to the following:

- i. **Confidentiality.** As a victim advocate service provider, and under the *Violence against Women Act* and the *Family Violence Prevention and Services Act*, YWCA has specific legal obligations regarding confidentiality that apply to its domestic and sexual violence programs, including the victim advocate services provided under this MOU.

Generally, YWCA:

- Has a legal obligation to protect any personally identifiable information about a victim or client;
- Will not release any information about the victim or client without clearly informed, written and signed, reasonably time-limited consent of the client; and
- Will only share the specific information the client allows in a release; except where:

There is a risk of harm to self and/or others;
 YWCA advocates are required by law to report suspected child abuse or neglect;
 YWCA advocates are required by law to report allegations or incidents of sexual abuse or sexual harassment in confinement facilities; or

Necessary to seeking help in medical emergencies.

For the purposes of this MOU, therefore, YWCA's confidentiality requirements stipulate that:

- A survivor of sexual abuse or sexual harassment retains the right to choose when, how, and what personal information will be shared, or not shared, and with whom; and
- YWCA and its advocates are responsible for respecting and honoring the victim's wishes and safeguarding any of the victim's or client's information that they collect or hold.

- ii. **Reporting.** PREA Standards impose obligations to collect, analyze, review, and report incident-based and aggregate data regarding allegations and incidents of sexual abuse and sexual harassment in confinement. Information received by YWCA regarding allegations or incidents of sexual abuse and sexual harassment in confinement will be documented in call sheets or incident report forms, and reported to MDOC in either:

- Emergent case/incident reports; or
- Aggregate reports of call activity.

iii. **Evaluation.** On or before June 30, 2018, both parties will produce and exchange final reports that:

- Describe and analyze performance under this MOU;
- Provide information on the achievement of objectives;
- Identify challenges encountered, and new or continuing needs; and
- Provide recommendations for continuation of the relationship and providing services.

These reports will be submitted to the authorized representatives of MDOC and YWCA (whose names appear below), or their designees.

Following the submission of the final reports, the authorized representatives of MDOC and YWCA, or their designees, will meet to evaluate the success of the MOU, their interest in continuing the relationship and providing services, and, as necessary, the form the relationship should take (i.e. an extension of the current MOU, a new MOU, or a formal contract).

Based on the aforementioned reviews, the facility and agency are in compliance with this standard.

Standard 115.54: Third-party reporting

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

115.54 (a)

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

Auditor Overall Compliance Determination

Exceeds Standard (*Substantially exceeds requirement of standards*)

XXX Meets Standard (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

Does Not Meet Standard (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

Documents and Policy Reviewed

Pre-Audit Questionnaire

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

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

End the Silence Brochure

Inmate Posters, English and Spanish

Onsite Observations

Interviews

PREA Coordinator

PREA Compliance Manager (PREA Specialist)

Findings

DOC Policy 1.1.17, Prison Rape Elimination Act of 2003 (PREA) stated that inmates may report through a third party. Inmate education also includes information on third party reporting.

Interviews with inmates indicated an awareness of third party reporting. PREA Audit Report 26

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

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

The auditor tested and emailed this address on two occasions. Each email was responded to within 15 minutes.

Based on the aforementioned reviews, the facility and agency are in compliance with this standard.

OFFICIAL RESPONSE FOLLOWING AN INMATE REPORT

Standard 115.61: Staff and agency reporting duties

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

115.61 (a)

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

115.61 (b)

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

115.61 (c)

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

115.61 (d)

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

115.61 (e)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

Documents and Policy Reviewed

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

Onsite Observations

Interviews

PREA Coordinator
PREA Compliance Manager (PREA Specialist)
Random Staff Interviews
Specialized Staff Interviews
Training Staff

Findings

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

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

(c) Medical and mental health practitioners have the same reporting requirements as staff. Interviews with medical and mental health staff indicated they were aware that they needed to inform inmates of their duty to report and limitation of confidentiality at the initiation of service.

(d) DOC Policy 1.1.17, *Prison Rape Elimination Act of 2003 (PREA)* states that in accordance with 41-3-201 MCA, if a youth offender (under the age of 18) has been victimized, Department of Public Health

and Human Services (DPHHS) must be notified by contacting the Montana child abuse hotline at (866) 820-5437.

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

Corrective Action: Based on interviews and documentation review, the audit team found instances where reports were not forwarded, as per the policy, and immediately reported. To correct this matter, the MDOC developed and send out a pod-cast training. The email to all staff stated:

To be audit compliant, you must complete all sections of this course, click the acknowledgment, and click on and open your certificate. A copy of your certificate will be entered into your training record automatically.

This course is worth 15 minutes of training credit, but does not count towards listening to the podcast series, only for this corrective action training.

The course will be locked after at 5:00pm on May 11th.

The auditor was given access to this podcast and the attached documents that all staff have to see and review. Once all staff completed, a roster was forwarded to the Auditor to review.

Based on the aforementioned reviews, the facility and agency are in compliance with this standard.

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*)

XXX Meets Standard (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

Does Not Meet Standard (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

Documents and Policy Reviewed

Pre-Audit Questionnaire

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

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

Onsite Observations

Interviews

PREA Coordinator

PREA Compliance Manager (PREA Specialist)

Findings

DOC Policy 1.1.17, Prison Rape Elimination Act of 2003 (PREA) clearly outlines the agency's policy of zero tolerance against sexual misconduct to include sexual abuse, sexual harassment and retaliation including separating the victim and suspect and keeping the victim safe.

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

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

Based on the aforementioned reviews, the facility and agency are in compliance with this standard.

Standard 115.63: Reporting to other confinement facilities

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

115.63 (a)

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

115.63 (b)

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

115.63 (c)

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

115.63 (d)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

Documents and Policy Reviewed

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

Onsite Observations

SharePoint

Interviews

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

Findings

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

Samples of notifications were provided as supporting documentation. The samples were within the required timeframe.

Corrective Action: The PAQ indicated that in the past twelve months, MSP received one allegation notice from another facility. The facility was not able to provide a list of instances where these were sent to other facilities, however, as these are not logged. For corrective action, the reports to other confinement facilities will be documented in the Departments SharePoint web based program.

The facility forwarded to the auditor a sample of the new process. In this instance an inmate came into the facility and reported that he had been sexually assaulted while housed in another State. The staff member who completed this information immediately added this information on a Report for Investigation. The response was received from the Investigator Office that it needed to be referred to that agency. A screenshot of the SharePoint log was shown to the auditor, to illustrate where it was logged.

In addition, a memo was provided to the auditor which stated:

Per the MSP PREA CAP, specifically 115.63, reports to other agencies, all reports to other agencies will be documented in the same manner as MSP PREA cases with a document of the report to the other agency contained within the file. This ensures MSP handles cases in a timely manner.

Since taking over as Acting PCM, there has been 1 report to an outside agency. The report was made directly by the Department of Investigations to CCA Oklahoma. The case documents and emails are attached in support of this.

Second on-visit: While on-site, the auditor interviewed staff in regards to the requirements and asked for samples. On the samples received, it was seen that the notifications were not coming from the Warden. They were being written by his assistant. The Auditor, PREA Coordinator and PREA Compliance Manager all review the standard and the FAQ together. The standard was determined to stay in corrective action. The corrective action that was determined to be necessary involved the PREA Coordinator educating all Wardens and PCM's statewide on this requirement.

This following was sent via email to all Wardens, Executive Staff and PCM's on July 26, 2018 and stated:

Hello everyone,

During the re-inspection of MSP this week, it was noted by the audit team that when we are reporting to other confinement facilities that an incident occurred in their facility, the facility head hasn't always been the one making this notification. Based on the language of the standard, as well as the FAQ (linked below), this notification must come from the facility head. If the facility head is on leave, the interim facility head may send the notification on their behalf. In practice, this means the facility head must email, call, or send a letter to the other facility and then document that notification in our SharePoint site. If you have any questions, please let me know.

§ 115.63 Reporting to other confinement facilities. (a) Upon receiving an allegation that an inmate was sexually abused while confined at another facility, the head of the facility that received the allegation shall notify the head of the facility or appropriate office of the agency where the alleged abuse occurred. (b) Such notification shall be provided as soon as possible, but no later than 72 hours after receiving the allegation. (c) The agency shall document that it has provided such notification. (d) The facility head or agency office that receives such notification shall ensure that the allegation is investigated in accordance with these standards.

<https://www.prearesourcecenter.org/node/5284>

<https://www.prearesourcecenter.org/node/5285>

Thanks,

Michele Morgenroth

PREA Coordinator

The facility was able to send to the auditor four samples; dated July 31, August 6, August 6 and August 9 in which the Warden notified other facilities of allegations that has been in made. In each case, he carbon copies the acting PCM so that she may create a tracking system.

Based on the aforementioned reviews, the facility and agency are in compliance with this standard.

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

115.64 (b)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

Documents and Policy Reviewed

Pre-Audit Questionnaire
 Montana Policy Directive, DOC 1.1.17 *Prison Rape Elimination Act of 2003 (PREA)*
 Coordinated Response Plan
 Staff Acknowledgements
 Containment Checklist
 Patient Protocol
 Request for Mental Health Services

Onsite Observations

Control Stations

Interviews

PREA Coordinator

PREA Compliance Manager (PREA Specialist)

Medical

Mental Health

Supervisory Staff

Warden

Director

Findings

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

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

Interview with staff that were both custody and non-custody, indicated that they are aware of this standard and had a clear understanding of the process.

Based on the aforementioned reviews, the facility and agency are in compliance with this standard.

Standard 115.65: Coordinated response

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

115.65 (a)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

Documents and Policy Reviewed

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

Onsite Observations

Interviews

PREA Coordinator
PREA Compliance Manager (PREA Specialist)
Supervisors
Unit Staff
Warden
Director
Mental Health Staff
Medical Staff

Findings

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

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

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

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

Corrective Action: The facility provided a coordinated response plan to the Auditor. The version they were using was the MDOC Plan.

Based on the aforementioned reviews, the facility and agency are in compliance with this standard.

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*)

XXX Meets Standard (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

Does Not Meet Standard (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

Documents and Policy Reviewed

Pre-Audit Questionnaire
Collective Bargaining Unit
Notice of Administrative Leave

Onsite Observations

Interviews

PREA Coordinator
PREA Compliance Manager (PREA Specialist)

Findings

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

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

Based on the aforementioned reviews, the facility and agency are in compliance with this standard.

Standard 115.67: Agency protection against retaliation

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

115.67 (a)

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

115.67 (b)

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

115.67 (c)

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

- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor reassignments of staff? XXX Yes
 No
- Does the agency continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need? XXX Yes No

115.67 (d)

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

115.67 (e)

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

115.67 (f)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

Documents and Policy Reviewed

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

Onsite Observations

Discussions with Staff and Inmates

Interviews

PREA Coordinator
PREA Compliance Manager (PREA Specialist)
HR Staff
Shift Supervisors
Warden
SART Team members

Findings

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

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

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

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

(d) Monitoring is done weekly and interviews with staff who monitor indicate it is occurring from at least 90 days to six months usually. A review of completed sheets indicated this was occurring however, the in person visits and documentation was not always complete or consistent.

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

Corrective Action: The facility will determine who is going to conduct the retaliation monitoring and re-train that person and a back up. The PCM will advise that person/people when to begin and when to stop any monitoring, and ensure the proper documentation is being completed. The Warden assignment of this duty, the training and sign off sheet, and samples of those being completed will be forwarded to the auditor.

A memo was provided to the auditor on July 13, 2018 which stated:

Per the MSP PREA CAP, specifically 115.67, the Warden has assigned the duty of PREA retaliation monitoring to case managers for inmates. The Warden has assigned the duty of PREA retaliation monitoring to the Office of Human Resources or their designees for staff.

On June 20, 2018, the Statewide PREA Coordinator conducted training on Standard 115.67, Agency Protection against retaliation, for 29 staff members, to include those in the Office of Human Resources and case managers.

The PowerPoint and training roster were forwarded to the auditor to review. The auditor reviewed the PowerPoint. It thoroughly describes the standard and the process which will be utilized moving forward.

Sixty Seven samples of monitoring were reviewed for inmates. There were all detailed in their notes and you can see where in person with the inmates. They were timely and illustrated various points of 15, 45 and 90 days reviews.

A summary memo of all the efforts of the facility was sent to the auditor on August 13, 2018 which stated:

Per the MSP PREA CAP, specifically 115.67 and 115.71, MSP took the following actions upon Kristy Cobban becoming the Acting PCM on 6/4/2018:

- 6/4/2018- A folder was created on a secured shared drive for Retaliation Monitoring. All staff that conduct retaliation monitoring, or supervise a staff member that does, were granted access to this folder.
- 6/5/2018- Four correctional officers were disciplined for failure to complete the PREA Pod Cast as part of the PREA CAP in the time frames required. These officers received formal discipline and were ordered to immediately complete the course. By end of day on 6/5/2018 MSP was 100% complete with the PREA Pod Cast requirement.
- 6/8/2018- Acting PCM Cobban had the MSCTC supervisory staff to the Unannounced Rounds group to increase the number of supervisors completing this duty.
- 6/11/2018- After a review of SharePoint it was determined 23 Inmate on Inmate and 11 Staff on Inmate cases had not received an Administrative Investigation in the past 12 months.

Investigator training was scheduled, and it was determined with AW Wood that after the training of more investigators we would open all of these cases for Administrative assignment.

- 6/11/2018- Acting PCM Cobban ordered the re-organization and audit of all inmate mini-files by 6/29/2018. There were approximately 1,645 inmates at MSP at the time of the order.
- 6/11/2018- Interim Warden Salmonsén emailed the entire facility ordering them to comply with requests from the PCM and stating “failure is not an option” related to PREA compliance.
- 6/18/2018- Re-Write of the PCM Job Description began and submittal to the Office of Human Resources for classification of the position was completed.
- 6/19/2018- Incoming transfer inmate reminders started going to units by the PCM for education and risk assessment completion.
- 6/20/2018- Retaliation Monitoring, Unannounced Rounds, Risk Assessment and SharePoint training was conducted by Michele Morgenroth with all staff that conduct these items present.
- 6/20/2018- MSP Trainers began Transgender/Intersex pat search training for the entire facility.
- 6/21/2018- Acting PCM Cobban ordered all units to review the Transgender inmate list and to disclose if there are any known inmates not on said list. Further, it was ordered to re-assess and conduct the 6-month wellness check on each individual listed.
- 6/21/2018- Risk Assessment SharePoint Access was granted for all staff that conduct these or need to review these.
- 6/21/2018- Acting PCM Cobban ordered the review of every inmate for cell compatibility to ensure no known victims were housed with known predators. This review was inclusive of potential victims and predators too. At the time of this order there was approximately 1,645 inmates at MSP.
- 6/25/2018 & 6/26/2018- PREA Investigator Training occurred at MSP.
- 6/27/2018- After final review of case files 85 Retaliation Monitoring were ordered as Acting PCM Cobban found no evidence that in these cases prior monitoring had occurred in the past 12 months. MSP wanted to ensure that all inmates who had made allegations, even if the case was closed, were met with by a qualified staff member to determine current status and if any retaliation had occurred since making the allegation.

- 6/29/2018- AW Wood, Cynthia Davenport and Acting PCM Cobban determined which of the trained investigators would be assigned to each administrative case. Staff were ordered to complete thorough administrative investigations into 23 inmate on inmate and 11 staff on inmate PREA cases.
- 7/5/2018- First documentation of CAP items was sent by Acting PCM Cobban to Jillian Shane for review.
- 7/20/2018- The first staff reported case in over 12 months was reported by a Program Manager
- 7/25/2018- Staff Retaliation Monitoring was ordered to be conducted by Cynthia Davenport on the above referenced staff

Based on the aforementioned reviews, the facility and agency are in compliance with this standard.

Standard 115.68: Post-allegation protective custody

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

115.68 (a)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

Documents and Policy Reviewed

Pre-Audit Questionnaire

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

Onsite Observations

Segregation

Interviews

PREA Coordinator

PREA Compliance Manager (PREA Specialist)

Segregation Staff

Supervisors

Unit Managers

Classification Staff

Warden

Grievance Officer

Findings

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

A spreadsheet was provided as documentation that indicated this had not occurred.

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

Based on the aforementioned reviews, the facility and agency are in compliance with this standard.

INVESTIGATIONS

Standard 115.71: Criminal and administrative agency investigations

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

115.71 (a)

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

115.71 (b)

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

115.71 (c)

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

115.71 (d)

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

115.71 (e)

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

115.71 (f)

- Do administrative investigations include an effort to determine whether staff actions or failures to act contributed to the abuse? XXX Yes No
- Are administrative investigations documented in written reports that include a description of the physical evidence and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings? XXX Yes No

115.71 (g)

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

115.71 (h)

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

115.71 (i)

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

115.71 (j)

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

115.71 (k)

- Auditor is not required to audit this provision.

115.71 (l)

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

Auditor Overall Compliance Determination

Exceeds Standard (*Substantially exceeds requirement of standards*)

XXX **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

Does Not Meet Standard (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

Documents and Policy Reviewed

Pre-Audit Questionnaire

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

Montana Policy Directive, DOC 3.1.13, *Administrative Investigations*

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

General Report

Investigation Referral Process

Onsite Observations

Investigators Office and Locations

Inmate Files

Interviews

PREA Coordinator

PREA Compliance Manager (PREA Specialist)

Findings

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

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

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

(c) Interviews with investigators indicated they understood they shall gather and preserve direct and circumstantial evidence, including any available DNA evidence and any available electronic monitoring

data and shall interview alleged victims, suspected perpetrators, and witnesses; and shall review prior complaints and reports of sexual abuse involving the suspected perpetrator.

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

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

(f-g) Administrative investigations were reviewed during the audit. The investigations did not document in the written reports provided a description of evidence, reasons behind credibility assessments, and investigative facts and findings. In some instances, interviews with the alleged victim were not being completed.

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

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

Corrective Action: The PCM was completing all facility level investigations on his own. After a review of these, it was clear that some were not being completed thoroughly and objectively. In addition, the PCM completing the referral, the investigation and then doing the retaliation monitoring is a conflict. To correct this, the facility will identify and train those who will be conducting the facility level investigations, and also ensure that the completed investigations, moving forward, are reviewed by Central Office staff.

A memo was provided to the auditor, dated July 8, 2018 which stated: *Per the MSP PREA CAP, specifically 115.71, the Warden has assigned the duty of Administrative Investigations to all trained investigators to complete. These assignments come from either the Associate Warden of Security for inmate on inmate cases, or the Office of Human Resources for staff on inmate cases.*

To meet these investigator assignments, investigator training was held on 06/25 – 06/27, 2018 and included forty-two staff from these classifications.

A summary memo of all the efforts of the facility was sent to the auditor on August 13, 2018 which stated:

Per the MSP PREA CAP, specifically 115.67 and 115.71, MSP took the following actions upon Kristy Cobban becoming the Acting PCM on 6/4/2018:

- 6/4/2018- A folder was created on a secured shared drive for Retaliation Monitoring. All staff that conduct retaliation monitoring, or supervise a staff member that does, were granted access to this folder.
- 6/5/2018- Four correctional officers were disciplined for failure to complete the PREA Pod Cast as part of the PREA CAP in the time frames required. These officers received formal discipline and were ordered to immediately complete the course. By end of day on 6/5/2018 MSP was 100% complete with the PREA Pod Cast requirement.
- 6/8/2018- Acting PCM Cobban had the MSCTC supervisory staff to the Unannounced Rounds group to increase the number of supervisors completing this duty.
- 6/11/2018- After a review of SharePoint it was determined 23 Inmate on Inmate and 11 Staff on Inmate cases had not received an Administrative Investigation in the past 12 months. Investigator training was scheduled, and it was determined with AW Wood that after the training of more investigators we would open all of these cases for Administrative assignment.
- 6/11/2018- Acting PCM Cobban ordered the re-organization and audit of all inmate mini-files by 6/29/2018. There were approximately 1,645 inmates at MSP at the time of the order.
- 6/11/2018- Interim Warden Salmonsens emailed the entire facility ordering them to comply with requests from the PCM and stating "failure is not an option" related to PREA compliance.
- 6/18/2018- Re-Write of the PCM Job Description began and submittal to the Office of Human Resources for classification of the position was completed.
- 6/19/2018- Incoming transfer inmate reminders started going to units by the PCM for education and risk assessment completion.
- 6/20/2018- Retaliation Monitoring, Unannounced Rounds, Risk Assessment and SharePoint training was conducted by Michele Morgenroth with all staff that conduct these items present.
- 6/20/2018- MSP Trainers began Transgender/Intersex pat search training for the entire facility.
- 6/21/2018- Acting PCM Cobban ordered all units to review the Transgender inmate list and to disclose if there are any known inmates not on said list. Further, it was ordered to re-assess and conduct the 6-month wellness check on each individual listed.
- 6/21/2018- Risk Assessment SharePoint Access was granted for all staff that conduct these or need to review these.

- 6/21/2018- Acting PCM Cobban ordered the review of every inmate for cell compatibility to ensure no known victims were housed with known predators. This review was inclusive of potential victims and predators too. At the time of this order there was approximately 1,645 inmates at MSP.
- 6/25/2018 & 6/26/2018- PREA Investigator Training occurred at MSP.
- 6/27/2018- After final review of case files 85 Retaliation Monitoring were ordered as Acting PCM Cobban found no evidence that in these cases prior monitoring had occurred in the past 12 months. MSP wanted to ensure that all inmates who had made allegations, even if the case was closed, were met with by a qualified staff member to determine current status and if any retaliation had occurred since making the allegation.
- 6/29/2018- AW Wood, Cynthia Davenport and Acting PCM Cobban determined which of the trained investigators would be assigned to each administrative case. Staff were ordered to complete thorough administrative investigations into 23 inmate on inmate and 11 staff on inmate PREA cases.
- 7/5/2018- First documentation of CAP items was sent by Acting PCM Cobban to Jillian Shane for review.
- 7/20/2018- The first staff reported case in over 12 months was reported by a Program Manager
- 7/25/2018- Staff Retaliation Monitoring was ordered to be conducted by Cynthia Davenport on the above referenced staff

In addition, the facility sent to the auditor cases that were re-reviewed and closed out during the review period. The auditor randomly selected cases to review and all documents relating to this standard, and other investigative related standards were reviewed and included. On case in particular, was assigned in August and closed September 26, 2018 to illustrate the new process and timeliness will be adhered to.

Based on the aforementioned reviews, the facility and agency are in compliance with this standard.

Standard 115.72: Evidentiary standard for administrative investigations

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

115.72 (a)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

Documents and Policy Reviewed

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

Onsite Observations

Interviews

PREA Coordinator
PREA Compliance Manager (PREA Specialist)
Investigators, Facility Level and Agency Level
Warden
Supervisor Interviews

Findings

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

Based on the aforementioned reviews, the facility and agency are in compliance with this standard.

Standard 115.73: Reporting to inmates

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

115.73 (a)

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

115.73 (b)

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

115.73 (c)

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

115.73 (d)

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

115.73 (e)

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

115.73 (f)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

Documents and Policy Reviewed

Pre-Audit Questionnaire

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

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

Memorandum Sample

Onsite Observations

Files

Interviews

PREA Coordinator

PREA Compliance Manager (PREA Specialist)

Inmates who reported sexual abuse or Sexual harassment

Classification Staff

Warden

Unit Managers

SART Members

Findings

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

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

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

(e) The notifications are documented with a letter and a check off sheet that the facility PREA Specialist maintains copies of for documentation.

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

During the onsite portion of the audit and prior to the audit being conducted on site, the auditor asked the PCM for copies of these notifications. It was not until three weeks after the audit that these were provided to the auditor. For that reason, the auditor will continue to monitor to ensure they are completed timely, logged and maintained properly.

The auditor was provided, on July 13, with twenty-seven samples of letters and notifications that were sent to inmates.

Second Site-Visit: During the second visit, it was seen that, while the facility was clearly notifying the inmate at the conclusion of the investigation, the staff were not notifying the inmate when a staff member is not longer posted in their unit. For continued corrective action, the PREA Coordinator sent the below, via email, to all PCMs, administrators, and the interim HR director:

Hello everyone,

During our re-inspection at MSP it was brought to our attention by the audit team that notifications to inmates in regard to standard 115.73(c)(1), notifications that the staff member is no longer posted in the unit, were not being made. I want to make sure that all facilities are ensuring all notifications required by the standard are being made. If staff are removed from a position, unit, or the facility pending an investigation, make sure you notify the victim. Also, work with the staff making these decisions (command post, Wardens, HR, etc.) so they know that as a PCM, you need to know when a staff is moved due to a PREA allegation. I've copied the full standard below and highlighted this specific section.

[115.73 Reporting to inmates](#)

(a) Following an investigation into an inmate's allegation that he or she suffered sexual abuse in an agency facility, the agency shall inform the inmate as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded.

(b) If the agency did not conduct the investigation, it shall request the relevant information from the investigative agency in order to inform the inmate.

(c) Following an inmate's allegation that a staff member has committed sexual abuse against the inmate, the agency shall subsequently inform the inmate (unless the agency has determined that the allegation is unfounded) whenever:

(1) The staff member is no longer posted within the inmate's unit;

(2) The staff member is no longer employed at the facility;

(3) The agency learns that the staff member has been indicted on a charge related to sexual abuse within the facility; or

(4) The agency learns that the staff member has been convicted on a charge related to sexual abuse within the facility.

(d) Following an inmate's allegation that he or she has been sexually abused by another inmate, the agency shall subsequently inform the alleged victim whenever:

(1) The agency learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility; or

(2) The agency learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility.

(e) All such notifications or attempted notifications shall be documented.

(f) An agency's obligation to report under this standard shall terminate if the inmate is released from the agency's custody.

Thanks,

Michele Morgenroth

PREA Coordinator

Based on the aforementioned reviews, the facility and agency are in compliance with this standard.

DISCIPLINE

Standard 115.76: Disciplinary sanctions for staff

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

115.76 (a)

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

115.76 (b)

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

115.76 (c)

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

115.76 (d)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

Documents and Policy Reviewed

Pre-Audit Questionnaire

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

Samples of Administrative Investigation Warning

Sample of Administrative Leave Notice

Sample of Demotion Notice

Sample of Written Warning

Sample of Suspension

Onsite Observations

HR Files

Investigation Files

Interviews

PREA Coordinator

PREA Compliance Manager (PREA Specialist)

HR Staff

Warden

Investigator

Supervisors

Random Staff

Findings

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

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

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

(c) An interview with Human Resources indicated all disciplinary sanctions for violations of agency policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) shall be commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories.

(d) An interview with Human Resources indicated all terminations for violations of agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies.

PAQ stated that there was one instance of this occurring. The Auditor requested this copy and was provided it during the second visit. Through the case that was provided and during each level of review, the auditor was able to see that the facility thoroughly investigated and addressed staff actions that were involved in this instance.

Based on the aforementioned reviews, the facility and agency are in compliance with this standard.

Standard 115.77: Corrective action for contractors and volunteers

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

115.77 (a)

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

115.77 (b)

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

Auditor Overall Compliance Determination

Exceeds Standard (*Substantially exceeds requirement of standards*)

XXX **Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

Does Not Meet Standard (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

Documents and Policy Reviewed

Pre-Audit Questionnaire

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

Onsite Observations

HR files

Volunteer/contractor files and logs

Investigative files

Interviews

PREA Coordinator

PREA Compliance Manager (PREA Specialist)

Volunteer Coordinator

Volunteer

HR Staff

Supervisors

Findings

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

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

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

Corrective Action: While interviewing the Volunteer Coordinator, she indicated that there was an instance where as she pulled the clearance of a volunteer for undue familiarity and a possible romantic relationship with an inmate. The auditor asked for copies of this case, however, it was not investigated or reported. The auditor is asking for an investigation and a report. This will help ensure that if there is criminal wrongdoing, it is referred and also, it is logged properly to ensure this volunteer does not gain access in the future.

The matter was investigated after the auditor reported this to the facility. Documentation was sent to the auditor to review. This staff member was re-trained and educated in the reporting process to ensure she is clear on the requirements.

Based on the aforementioned reviews, the facility and agency are in compliance with this standard.

Standard 115.78: Disciplinary sanctions for inmates

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

115.78 (a)

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

115.78 (b)

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

115.78 (c)

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

115.78 (d)

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

115.78 (e)

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

115.78 (f)

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

115.78 (g)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

Documents and Policy Reviewed

Pre-Audit Questionnaire
Montana Policy Directive, DOC 1.1.17 *Prison Rape Elimination Act of 2003 (PREA)*
Montana State Prison Operational Procedure, DOC 3.4.1, *Institutional Discipline*
Montana Policy Directive, DOC 3.4.1 *Offender Disciplinary System*
Montana Policy Directive, DOC 3.4.2 *Prohibited Acts*
Memo from PCM
Log books
Investigations resulting in discipline

Onsite Observations

Inmate handbook availability and placement

Segregation

Logs

Interviews

PREA Coordinator

PREA Compliance Manager (PREA Specialist)

Findings

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

MSP reported that in the previous 12 months, there were no reported incidents of inmate on inmate sexual abuse that were substantiated, therefore no disciplinary reports were available to review at the time of the audit.

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

An interview with the Warden indicated this was occurring.

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

An interview with the Warden indicated this was occurring.

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

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

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

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

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

The PCM provided a memo to the auditor dated March 9, 2018 which stated that MSP did not discipline any inmate for sexual abuse since the last audit. It stated that MSP currently has one case of inmate on inmate sexual abuse that is being sent for prosecution. MSP will hold the inmate accountable for internal discipline if there is a criminal finding of guilt.

A memo was provided to the auditor which stated:

Per the MSP PREA CAP, specifically 115.78, administrative investigations have been ordered for all cases for the last year that MSP could not show evidence that an administrative investigation occurred. All new cases since the audit have been assigned administrative investigators from the attached approved investigator list. Once these investigations are complete, they will be available in electronic and hard copy.

Per the MSP PREA CAP, specifically for 115.78, Acting PCM Cobban has checked weekly for cases that close that may result in inmate discipline for sexual abuse/harassment. Since January 1, 2018, there have been no substantiated cases of inmate on inmate sexual abuse/harassment. As a result, we have no documentation to provide related to inmate disciplinary for such cases. MSP will continue to review each case as the investigation concluded for potential disciplinary to be issued.

Based on the aforementioned reviews, the facility and agency are in compliance with this standard.

MEDICAL AND MENTAL CARE

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

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

115.81 (a)

- If the screening pursuant to § 115.41 indicates that a prison inmate has experienced prior sexual victimization, whether it occurred in an institutional setting or in the community, do staff ensure that

the inmate is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening? (N/A if the facility is not a prison.) XXX Yes No NA

115.81 (b)

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

115.81 (c)

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

115.81 (d)

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

115.81 (e)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

Documents and Policy Reviewed

Pre-Audit Questionnaire

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

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

MSP Patient Care Protocol
Memos
Inmate Files

Onsite Observations

Inmate Files

Interviews

PREA Coordinator
PREA Compliance Manager (PREA Specialist)
Medical Staff
Medical Staff
Classification Staff
Unit Managers
Supervisors

Findings

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

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

This information is confidential and strictly limited to medical and mental health clinicians and other staff, as necessary, to inform treatment plans and security management decisions, including housing, bed, work, education, and program assignments or as otherwise required by law.

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

C. MSP is not a jail so this provision of the standard is not applicable.

D. Policy and procedure states that this information would be confidential and strictly limited to medical and mental health clinicians and other staff, as necessary, to inform treatment plans and

security management decisions, including housing, bed, work, education, and program assignments or as otherwise required by law.

CORRECTION ACTION: The PREA Coordinator will conduct training with all staff that may complete inmate screenings. This will include medical and mental health staff, case managers, PREA staff and housing Lieutenants.

All MH referrals during either the 72 hour screening or the 30 day follow up screening that indicate that an inmate has experienced prior victimization or has previously perpetrated sexual abuse will be forwarded to MH staff immediately upon completion of the screening, via email. The PREA Coordinator worked with IT to create a SharePoint database to log and track all screenings and MH referrals and follow up for a previous corrective action and will implement at MSP. The staff completing the screening (72 or 30 day) will enter the screening and referral dates into SharePoint. All staff has been trained and the process was reviewed with the Auditor. Samples of referrals and have been sent to the Auditor on a bi-weekly basis to illustrate compliance.

Add to the local, MSP Procedure.

On June 20, 2018, a training was conducted by the Statewide PREA Coordinator which included fifty-one (51) staff members.

The process was developed and sent to the auditor to review. It was as follows:

PREA Risk Assessment and Referral Protocol

1. 72-hour initial assessments

I. Offenders admitted during normal operating hours (M-F 0630 to 1630)

20. Within 72 hours of admission to a secure facility, each inmate will be provided an initial PREA Risk Assessment as part of the admissions process. Staff should attempt to complete this assessment within 48 hours of admission.
21. Each inmate will be escorted by staff to the admission screening room.
 - a. No other inmates or staff shall be present when conducting a PREA risk assessment
22. Staff will verify that the name and AO of the offender is correct on the form.
23. Staff will begin the assessment by introducing themselves and state to the inmate the intended purpose of the assessment.
24. Staff will proceed with the assessment, beginning with question #1 and ending with question #11, following the assessment in numerical order.
25. Staff must ask all 11 questions and mark an appropriate response on the risk assessment form.
26. Offender responses will be recorded on the assessment form by the staff member.
27. Offenders are not allowed to fill out the form themselves and all questions must be asked by the staff member.

28. All sections of the assessment will be filled out legibly and with complete information (i.e. first and last names, full date with year)
29. Offenders may ask follow up questions to find clarification however staff must mark an appropriate box (yes or no) to all the questions.
30. Assessing staff will review any relevant documentation available to verify the offender's responses.
31. If the offender does not answer with a definitive yes or no, then staff will review documentation to assess the correct answer.
32. Offenders will not be disciplined or punished for refusing to answer.
33. If the offender refuses to sign their name, the staff member will note that on the PREA assessment form and have another staff member sign the form to verify the refusal.
34. If the offender refuses to participate in the assessment, staff will use information available to complete the assessment to the best of their ability.
35. If the offender provides information or responses that are found to be untrue, staff will use all information available to them and document where the correct information was located to verify the question.
36. Offenders that are on a suicide watch, Behavior Modification Plan or are mentally incapacitated, the offender will not be subjected to a PREA risk assessment. If this occurs staff must provide notes on the risk assessment form and SharePoint with details of the situation and must conduct an assessment when the offenders mental state is appropriate.
37. Offenders that are direct commits to locked LHU (Locked Housing Units I or II) will be the responsibility of the offenders Locked Housing Unit Case Manager and Unit Manager and will be assessed as a new admission.
38. Offenders that are direct commits to the infirmary that require an assessment will be the responsibility of Admissions and will be assessed as a new admission.

J.

Scoring the 72-hour assessment

1. If the offender provides a **Yes answer to questions # 1** in the possible victim's factors, the offender will be scored as a **known victim**.
2. If the offender answers **yes to three (3) or more questions, not including #1**, then the offender will be scored as a **potential victim**, otherwise the offender will be scored as a **non-victim**.
3. If an offender provides a **yes answer to question #1** in the possible predator factors, the offender will be scored as a **known predator**. If identified as a known predator, staff must offer a mental health referral to the offender, have the offender sign, full date and initial yes or no.

4. If the offender provides a yes If the offender answers **yes to three (3) or more of the questions, not including #1** in the possible predators' factors, the offender will be scores as a **potential predator**, otherwise the offender will be scored as a **non-predator**.
5. If the offender answers yes to **either #1 or #2 of the possible victim factors or the possible predatory factors**, the staff must ask the offender if the offender would like to be referred to Mental Health for follow up.
6. If an offender answers yes to question #8, staff should ask if the offender is transsexual or an intersex offender and make a note of which the offender states.
7. If the offender requests a mental health referral, the interviewing staff will have the offender sign their name, fill in the complete date, and initial the "yes" box.
8. If the offender refuses a Mental Health referral the staff will have the offender sign their name, fill in full date, and initial the "no" box.
9. If the offender refuses to sign their name, the staff member will note that on the PREA assessment form and have another staff member sign the form to verify the refusal.
10. The staff member who conducted the assessment, will forward a copy of the assessment and the PREA Mental Health Referral Form, to the Mental Health Department and notify via email the following staff of the need for mental health follow up.
 - i. MSP Mental Health Supervisors (Jamie Ray and Erin Grunhuvd) and Mental Health Admin Assistant (Bobby Neubauer)
 - ii. MDIU Unit Manager and Admissions Manager
11. The staff member who conducted the assessment will upload the initial assessment into SharePoint for each offender by the end of their shift.
12. The staff member who conducted the assessment **will also provide a chrono entry on any identified victim/predator into OMIS 3.0 under the Special Management section**, so the information is available to other staff when considering housing designation, programming, or other assignments. Copies of the assessment must be filed in the offenders 6 part unit file(mini file).

K. Staff conducting 72-hour initial PREA Assessment

1. Admissions Manager will be the primary staff responsible for conducting the initial PREA Risk Assessment.
2. If the Admissions Manager is absent, the Admissions officers, who are trained to conduct the PREA assessment, will be responsible for conducting a 72-hour initial PREA assessment on the offender.

L. Offenders being admitted after normal operating hours (Weekends, holidays, or late arrivals)

1. As part of the cell compatibility duties, MDIU Unit Sergeants will be required to conduct an initial PREA assessment in the manner described above on all offenders being admitted to MSP on weekends, holidays or other admits outside Admissions normal operating hours.
2. If the supervising staff member is not trained to conduct a PREA risk assessment, the offender will be housed in a single cell until the offender can be assessed for risk. This may require in house moves to assign a single cell and the offender must be assessed within 72 hours of admittance.
3. All incoming inmates will be housed in a single cell until the offender has been assessed with a 72-hour initial PREA assessment
4. If no single cells are available, the unit sergeant may adjust offender housing assignments.
5. Once assessed only offenders that score **non-victim or non-predator** will be allowed to be housed with an offender that has not been assessed.
6. If the offender scores as the following they will remain in a single cell until an appropriate cell assignment is located.
 - i. Known victim
 - ii. Potential victim
 - iii. Known predator
 - iv. Potential Predator
7. Unit Sergeant will email the count office and admission staff the final cell placements so that the admission staff can modify the daily intake list to reflect the final housing assignment and count office can update the offenders housing in OMIS.
8. Unit Sergeant will then send the PREA assessment to the Admissions Manager for uploading into SharePoint and will provide a chrono entry in OMIS 3.0 under the Special Management section.
9. If the offender answers yes to either question #1 or #2 of the possible victim section, the **staff must ask the offender** if the offender would like to be referred to Mental Health for follow up
 - i. Have the offender sign, date, and initial the PREA form.
 - ii. Complete the Mental Health PREA Referral Form.
 - iii. Send an email with the referral form to the following staff for follow up
 1. Mental Health Supervisors (Jamie Ray and Erin Grunhuvd) and Mental Health Admin Assistant (Bobby Neubauer)
 2. MDIU Unit Manager and Admissions Manager
 3. PREA Compliance Monitor
 4. If deemed emergent by staff, staff will contact Command Post to request that the on call mental health staff member meet with the offender prior to the 14 days follow up period.

M. Inmates returning from Regional Contract Facilities (MDIU or directly to another unit) will be considered new admission for PREA assessment purposes.

1. Upon offender's admittance to a housing unit from a regional facility will be the responsibility of the unit case manager to assess each offender. Each offender must be provided the following;
 - i. PREA brochure "End the Silence"
 - ii. PREA 72-hour Risk Assessment (face to face assessment)
 - iii. Department of Corrections Offender PREA acknowledgement form for signature
 - iv. All inmates being returned to MDIU will be assessed by Admission staff if arrival occurs during normal operating hours.
 - v. If the offender arrives on weekends, holidays or afterhours, the receiving unit must assess the offender as described in section E.

N. 30-day follow up assessments

1. MDIU Case Managers will be responsible for 30 days follow up PREA assessments are being completed in a timely and consistent manner in conduction with their duties of classifying the incoming inmates.
2. Case Managers in housing units other than MDIU will be responsible for completing the 30 day follow up assessment if the offender is being housed in their unit at the appropriate time for assessment.
3. MDIU UMT will maintain a tracking form that will identify those offenders that need a 30 day follow up assessment prior to completing the offender's classification. This form will be maintained both at MDIU and Share point.
4. 30 day follow up assessments will be conducted in a private area that will ensure privacy for the completion of the assessments.
5. Staff will verify that the name and AO of the offender is correct on the form.
6. Offender responses will be recorded on the assessment form by the staff member.
7. Offenders are not allowed to fill out the form themselves and all questions must be asked by the staff member.
8. All sections of the assessment will be filled out legibly and with complete information (i.e. first and last names, full date with year)
9. Offenders may ask follow up questions to clarify however staff must mark an appropriate box (yes or no) to all the questions.
10. Staff will begin the assessment by introducing themselves and state to the inmate the intended purpose of the assessment.
11. Staff will proceed with the assessment, beginning with question #1 and ending with question #11, following the assessment in numerical order.

12. Staff must ask all 11 questions and mark an appropriate response on the risk assessment form.
13. Assessing staff will review any relevant documentation available to verify the offender's responses.
14. If the offender does not answer with a definitive yes or no, then staff will review documentation to assess the correct answer.
15. Offenders will not be disciplined or punished for refusing to answer.
16. If the offender refuses to sign their name, the staff member will note that on the PREA assessment form and have another staff member sign the form to verify the refusal.

O. 30-day assessment scoring

1. If the offender provides a **Yes answer to questions # 1** in the possible victim's factors section, the offender will be scored as a **known victim**
2. If the offender answers **yes to three (3) or more questions, not including #1**, then the offender will be scored as a **potential victim**, otherwise the offender will be scored as a **non-victim**.
3. If an offender provides a **yes answer to question #1** in the possible predator factors, the offender will be scored as a **known predator**. Staff must offer a mental health referral if scored as **known predator**.
4. If the offender provides a yes If the offender answers **yes to three (3) or more of the questions, not including #1** in the possible predatory factors section, the offender will be scores as a **potential predator**, otherwise the offender will be scored as a **non-predator**.
5. If the offender answers **yes to either #1 or #2** of the possible victim factors or the possible predatory factor section, the **staff must ask the offender** if the offender would like to be referred to Mental Health for follow up.
6. If the offender request mental health referral, the interviewing staff will have the offender sign their name, fill in the complete date, and initial the "yes" box.
7. If the offender refuses a Mental Health referral the staff will have the offender sign their name, fill in full date, and initial the "no" box.
8. If the offender refuses to sign their name, the staff member will note that on the PREA assessment form.
9. The staff member who conducted the assessment, will forward a copy of the assessment and the PREA Mental Health Referral Form, to the Mental Health Department and notify via email the following staff of the need for mental health follow up.
 - i. MSP Mental Health Supervisors and Mental Health Admin Assistant
 - ii. Unit Manager and Chief of Case Management
10. The staff member who conducted the assessment will upload the initial assessment into SharePoint for each offender by the end of their shift.

11. The staff member who conducted the assessment **will also provide a chrono entry on any identified victim/predator into OMIS 3.0 under the Special Management section**, so the information is available to other staff when considering housing designation, programming, or other assignments.
12. At the end of conducting the assessment Case Managers will consider the assessment when determining a housing assignment and uploading of the document into SharePoint as well as any relevant chrono entry into OMIS 3.0. Copies of the assessment must be made available for the 6-part unit file(mini file).

P. Auditing process

1. All 72-hour initial assessments in MDIU will be reviewed by the Unit Manager to ensure that the 72-hour assessment requirement is being met. These will be reviewed at 48 hours and it should be completed within 48 hours of admittance. Any assessments not completed by 48 hours will require a notification to the Admissions Manager for follow up and completion
2. 30-day follow up assessments will be reviewed by the appropriate Unit Manager to ensure the 30 day requirement is being met and the assessment will be reviewed at 20 days. Any assessments not completed by 20 days will require a notification to the unit case manager and Chief of Case Management to have the assessment completed within the 30-day period. All Unit Managers will be responsible for the tracking and completion of assessments and Mental Health Referrals within their respective units. If an assessment is not completed within 30 days staff will need to document in SharePoint, the reason for the missed assessment and note on the assessment the reason for missed assessment.
3. MSP Mental Health Director will review all Mental Health Referrals to ensure they are being completed within the 14 days requirement. Any referrals not completed at 10 days will require an email notification to the PREA Compliance Manager, Associate Warden of Housing and the appropriate Unit Manager for completion.

The PREA Compliance Manager will review all assessments and mental health referrals monthly. Any assessment or mental health referrals that are not completed within the appropriate guidelines, this may be addressed through the disciplinary process.

The facility began, in July, to send the auditor bi-weekly summaries of all intakes and subsequent documentation (as it related to other standards as well). The auditor looked for the clear process and the assurance that the 72 hour, initial screening and the follow up, 30 day screening, were completed. The spreadsheet would include all recent intakes, the inmates name and number, the intake date, the initial screening date, the second screening date, identified if they were answered yes to specific questions requiring follow up, whether that follow up with mental health was accepted or declined, and the staff member who completed this follow up. From these lists, the auditor would randomly select inmate's names and ask to see the complete documentation.

Based on the aforementioned reviews, the facility and agency are in compliance with this standard.

Standard 115.82: Access to emergency medical and mental health services

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

115.82 (a)

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

115.82 (b)

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

115.82 (c)

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

115.82 (d)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

Documents and Policy Reviewed

Pre-Audit Questionnaire

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

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

MSP Patient Care Protocol

Memos

Inmate Files

Onsite Observations

Inmate Files

Interviews

PREA Coordinator

PREA Compliance Manager (PREA Specialist)

Medical Staff

Medical Staff

Classification Staff

Unit Managers

Supervisors

Findings

- A. Policy states that clinical services will conduct a cursory assessment of any victim of sexual assault. Urgent and emergent medical care is provided at the facility as needed. Additional medical care is provided during or after the forensic exam. Victims shall receive timely, impeded access to emergency medical treatment and crisis intervention services.
- B. MSP Policy 1.1.17 states that If a security staff member is responding to an incident that has just occurred, the security staff member will: perform a cursory assessment to identify any urgent medical needs+;
- C. Policy DOC 1.1.17, Prison Rape Elimination Act states that services will include, at a minimum: access to medical examination and treatment to include follow up care and referrals; mental health crisis intervention and treatment timely access to emergency contraception, STD prophylaxis, all pregnancy related tests and services; and access to a victim advocate or rape crisis center counselor who can offer emotional support services throughout the investigation process, or access to a qualifies facility staff person.

D. Policy DOC 1.1.17, Prison Rape Elimination Act also indicates that treatment services provided to victims shall be without financial cost and shall be regardless if the victim names the abuser or cooperates.

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

During two separate interviews with members of medical staff, each was extremely well versed in all areas of this standard. In addition, medical staff interviewed was aware of their roles.

Based on the aforementioned reviews, the facility and agency are in compliance with this standard.

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

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

115.83 (a)

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

115.83 (b)

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

115.83 (c)

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

115.83 (d)

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

115.83 (e)

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

115.83 (f)

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

115.83 (g)

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

115.83 (h)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

Documents and Policy Reviewed

Pre-Audit Questionnaire

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

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

MSP Patient Care Protocol

Onsite Observations

Medical wing and offices

Mental Health Offices

Interviews

PREA Coordinator

PREA Compliance Manager (PREA Specialist)

Findings

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

(b) Interviews with medical and mental health providers indicated the evaluation and treatment of victims shall include, as appropriate, follow-up services, treatment plans, and, when necessary, referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody.

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

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

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

Interviews with medical staff indicated this was completed.

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

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

(h) Interviews with mental health staff indicated that a mental health evaluation of all known inmate – on-inmate abusers is not completed within 60 days of learning of such abuse history, and treatment offered when deemed appropriate by mental health practitioners.

Corrective Action: The facility will train clinical services in this requirement and develop a protocol for all staff responsible. Training will also be conducted for the screening staff, investigators and CM to ensure that the inmates identified in subsection (h) of this standard know to relay this information to mental health.

This training was completed and documentation was sent to the auditor to review.

Based on the aforementioned reviews, the facility and agency are in compliance with this standard.

DATA COLLECTION AND REVIEW

Standard 115.86: Sexual abuse incident reviews

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

115.86 (a)

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

115.86 (b)

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

115.86 (c)

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

115.86 (d)

- Does the review team: Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse? XXX Yes No
- Does the review team: Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; gang affiliation; or other group dynamics at the facility? XXX Yes No
- Does the review team: Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse? XXX Yes No
- Does the review team: Assess the adequacy of staffing levels in that area during different shifts? XXX Yes No
- Does the review team: Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff? XXX Yes No

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

115.86 (e)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

Documents and Policy Reviewed

Pre-Audit Questionnaire

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

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

Onsite Observations

Files

Interviews

PREA Coordinator

PREA Compliance Manager (PREA Specialist)

Supervisor

Warden

Random Staff

Classification Staff

Medical Staff

Mental Health Staff

Findings

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

A memo was sent to the auditor on July 8, 2018 which stated:

Per the MSP PREA CAP, specifically 115.86, all eligible cases that had not previously been reviewed by the Incident Review Committee were examined by the Committee on 7-12-2018. This was inclusive of Sexual Harassment cases as the team wanted to ensure we are examining every unsubstantiated and substantiated case for potential facility improvement.

The copies attached will be signed by the Acting Warden or Deputy Director on Monday, July 16th, 2018 and forwarded to you for final documentation of this corrective action.

On July 12, 2018, a training session was conducted with the Agency PREA Coordinator with seven (7) staff in attendance. The training PowerPoint was reviewed and it thoroughly detailed the standard, the form and the importance of the process of reviews.

Seven samples of Reviews were sent to the auditor. None had a Facility Administrator signature on the form line. The Warden was out of the office during these for a period of time. He has since reviewed all seven and signed. Moving forward, the Warden will be present in each of these meetings and will sign off on immediately.

Based on the aforementioned reviews, the facility and agency are in compliance with this standard.

Standard 115.87: Data collection

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

115.87 (a)

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

115.87 (b)

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

115.87 (c)

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

115.87 (d)

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

115.87 (e)

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

115.87 (f)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

Documents and Policy Reviewed

Pre-Audit Questionnaire

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

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

Onsite Observations

Website

Interviews

PREA Coordinator

PREA Compliance Manager (PREA Specialist)

Warden

Director

Findings

- A. DOC Policy 1.1.17, Prison Rape Elimination Act states that MDOC will collect aggregate, uniform data for every allegation of sexual abuse at facilities and programs under its direct control using a standardized instrument and definitions set forth in policy.
- B. During his interview, the Agency PREA Coordinator indicated that he reviews the incident based data at least annually.
- C. The aggregated data that is retained included all the data needed to complete the most recent version of the Survey of Sexual Violence (SSV).

- D. The Agency PREA Coordinator retains all incident based documentation, investigation reports, files and sexual abuse incident reviews.
- E. The Agency does contract with private facilities and the PREA Coordinator retains incident based data from that facility as well.
- F. The PREA Coordinator states that he provides this data to the Department of Justice, as it is requested and no later than that time.

The 2015 and 2016 SSV was provided to show that the facility has reported the incident to the Department of Justice.

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

Based on the aforementioned reviews, the facility and agency are in compliance with this standard.

Standard 115.88: Data review for corrective action

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

115.88 (a)

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

115.88 (b)

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

115.88 (c)

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

115.88 (d)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

Documents and Policy Reviewed

Pre-Audit Questionnaire

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

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

Onsite Observations

Website

Interviews

PREA Coordinator

PREA Compliance Manager (PREA Specialist)

Director

Warden

Findings

A through C. DOC Policy 1.1.17, Prison Rape Elimination Act, outlines the process by which the PREA Coordinator will collect and aggregate data, identify problem areas, recommend corrective action, and prepare an annual report. It states that the PREA Coordinator will prepare an annual report of findings and corrective actions for each facility as well as for the agency as a whole. It shall include a comparison of the current year's data and corrective actions with those from prior years and shall

provide an assessment of the agency's progress in addressing sexual assault/rape, sexual abuse, and sexual harassment. It will be approved by the Director and made public through the agency's website.

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

Based on the aforementioned reviews, the facility and agency are in compliance with this standard.

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? XXX
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? XXX Yes No

115.89 (c)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

Documents and Policy Reviewed

Pre-Audit Questionnaire

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

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

Cross Gender Supervision Handout

Onsite Observations

Website

Interviews

PREA Coordinator

PREA Compliance Manager (PREA Specialist)

Findings

- A. The PREA Coordinator collects data and reports from all facilities and compiles a report annually of investigations on all allegations of sexual abuse and sexual harassment.
- B. The 2014, 2015, and 2016 annual report was provided and reviewed. All required elements as per the standard and the policy are present. This report contained the corrective actions that MDOC and the facilities took during the review period. These were reviewed as published on the Department's website, for the public to review.
- C. No personal identifiers were seen in these published reports as all personal identifiers have been redacted.
- D. The PREA Coordinator retains all records of sexual abuse and sexual harassment cases pursuant to the states Records Retention Schedule. All investigative records are retained for five years after the closing of the investigation. Excluded records are those involving PREA matters which are retained for ten years after the close of the investigation. This included incident reports, investigative reports, photographs, videos, interviews and all other related items.

Based on the aforementioned reviews, the facility and agency are in compliance with this standard.

AUDITING AND CORRECTIVE ACTION

Standard 115.401: Frequency and scope of audits

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

115.401 (a)

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

115.401 (b)

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

115.401 (h)

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

115.401 (i)

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

115.401 (m)

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

115.401 (n)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

Documents and Policy Reviewed

Pre-Audit Questionnaire

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

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

Onsite Observations

Interviews

PREA Coordinator

PREA Compliance Manager (PREA Specialist)

Based on the aforementioned reviews, the facility and agency are in compliance with this standard.

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.) XXX Yes No NA

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

Documents and Policy Reviewed

Pre-Audit Questionnaire

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

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

Onsite Observations

Interviews

PREA Coordinator

PREA Compliance Manager (PREA Specialist)

Findings

Based on the aforementioned reviews, the facility and agency are in compliance with this standard.

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.

Click here to enter text. _____

November 8, 2018

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.