

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

Interim **XXX** Final

Date of Report February 3, 2018

Auditor Information

Name: Jillian Shane	Email: jillian.shane@state.nm.us
Company Name: NA	
Mailing Address: 615 First Street NW	City, State, Zip: Albuquerque, New Mexico 87102
Telephone: 505-383-2993	Date of Facility Visit: June 5-8, 2017 and October 23 -24, 2017

Agency Information

Name of Agency: Montana Department of Corrections		Governing Authority or Parent Agency (If Applicable): Click or tap here to enter text.	
Physical Address: 5 South Last Chance Gulch		City, State, Zip: Helena, Montana 59620	
Mailing Address 5 South Last Chance Gulch		City, State, Zip: Helena, Montana 59620	
Telephone: 406-444-3930		Is Agency accredited by any organization? <input type="checkbox"/> Yes XXX 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	XXX State	<input type="checkbox"/> Federal

Agency mission: The Montana Department of Corrections staff enhances public safety, supports 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 D. Michael	Title: Director
Email: Reginald.micharl@mt.gov	Telephone: 406-444-4913

Agency-Wide PREA Coordinator

Name: Michele Morgenroth	Title: PREA Coordinator
Email: MMorgenrother@mt.gov	Telephone: 406-444-6583
PREA Coordinator Reports to: Kurt Aughney, Quality Assurance Office Director	Number of Compliance Managers who report to the PREA Coordinator 2

Facility Information

Name of Facility: Montana Woman's Prison								
Physical Address: 701 South 27th Street, Billings, Montana 59105								
Mailing Address (if different than above): 701 South 27th Street, Billings, Montana 59105								
Telephone Number: 406-247-5100								
<table border="1" style="width: 100%;"> <tr> <td>The Facility Is:</td> <td><input type="checkbox"/> Military</td> <td><input type="checkbox"/> Private for profit</td> <td><input type="checkbox"/> Private not for profit</td> </tr> <tr> <td><input type="checkbox"/> Municipal</td> <td><input type="checkbox"/> County</td> <td>XXX State</td> <td><input type="checkbox"/> Federal</td> </tr> </table>	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	XXX State	<input type="checkbox"/> Federal
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<input type="checkbox"/> Municipal	<input type="checkbox"/> County	XXX State	<input type="checkbox"/> Federal					
Facility Type:	<input type="checkbox"/> Jail	XXX Prison						
Facility Mission: Montana Woman's Prison is committed to fulfilling its obligation to the citizens of Montana by providing female felony offenders an environments emphasizing accountability, productivity and personal growth in a secured setting.								
Facility Website with PREA Information: https://cor.mt.gov/PREA								

Warden/Superintendent

Name: Jennie Hansen	Title: Warden
Email: JHansen2@mt.gov	Telephone: 406-247-5112

Facility PREA Compliance Manager

Name: Mark Hartman	Title: PREA Compliance Manager
Email: mhartman1@mt.gov	Telephone: 406-247-5159

Facility Health Service Administrator

Name: Tonya Dempster	Title: Health Services Supervisor
Email: TDempster2@mt.gov	Telephone: 406-247-5105

Facility Characteristics

Designated Facility Capacity: 206	Current Population of Facility: 212
Number of inmates admitted to facility during the past 12 months	163

Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 30 days or more:			163
Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 72 hours or more:			163
Number of inmates on date of audit who were admitted to facility prior to August 20, 2012:			20
Age Range of Population: 21-66	Youthful Inmates Under 18: 0	Adults: 212	
Are youthful inmates housed separately from the adult population?		<input type="checkbox"/> Yes	<input type="checkbox"/> No
Number of youthful inmates housed at this facility during the past 12 months:			0
Average length of stay or time under supervision:			17 months
Facility security level/inmate custody levels:			Maximum, Ad-Seg, Medium, Minimum
Number of staff currently employed by the facility who may have contact with inmates:			77
Number of staff hired by the facility during the past 12 months who may have contact with inmates:			14
Number of contracts in the past 12 months for services with contractors who may have contact with inmates:			5
Physical Plant			
Number of Buildings: 2		Number of Single Cell Housing Units: 2	
Number of Multiple Occupancy Cell Housing Units:		6	
Number of Open Bay/Dorm Housing Units:		0	
Number of Segregation Cells (Administrative and Disciplinary):		22	
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.):			
6 DVR's with 16 cameras each for a total of 96 cameras, all are capable of recording at least 6 months of video. Cameras are located throughout the prison to include pod dayrooms, classrooms, medical waiting areas, gym, chapel, inmate work location, common areas, visitation, stairways, dining and hallways.			
Medical			
Type of Medical Facility:		Clinic	
Forensic sexual assault medical exams are conducted at:		Billings Clinic Hospital or St. Vincent's Healthcare	
Other			
Number of volunteers and individual contractors, who may have contact with inmates, currently authorized to enter the facility:			250
Number of investigators the agency currently employs to investigate allegations of sexual abuse:			5

Audit Findings

Audit Narrative

The PREA audit of Montana Woman's Prison a facility within the Montana Department of Corrections, was conducted on June 5-8, 2017. This audit was conducted as part of an agreement with the Western States Consortium and an MOU and Statement of Work that signed by both the New Mexico Corrections Department and the Montana Department of Corrections on May 11, 2017.

On Monday, June 4, an entrance meeting was held where introductions were made. The following staff was in attendance:

Assistant Warden Paul

Assistant Warden W Stein

HR Manager Penny Swanson

DHO Mark Hartman

Agency PREA Coordinator, Andy Jess

Public relations Annamae Siegfried-Derrick

RO Katie Stockton

Jillian Shane, DOJ Certified Auditor

Robin Bruck, Auditor Support Staff

After the meeting, a thorough tour of the entire institution was conducted. This included all areas of the grounds. While completing the tour, the audit team did see signage which announced that they were going to be onsite for the audit. These posters stated:

Montana Woman's Prison

BE ADVISED THAT DURING THE DAYS OF JUNE 5-8, 2017, 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 AUDITOR DURING AUDIT:

JILLIAN SHANE

PO BOX 639

LAS CRUCES, NEW MEXICO 88004

PLEASE WRITE ON ENVELOPE "FOR PREA AUDIT" AND IT WILL BE TREATED AS CONFIDENTIAL LEGAL MAIL.

Prior to the onsite portion of the audit, the Agency PREA Coordinator forwarded this signage to the PREA Auditor and stated that it was posted all over the facility on Thursday April 27, 2017. The facility staff sent a list to the auditor of all the locations that it was posted. These signs were viewed in the dayrooms/pods, program areas such as education, commissary, chow hall, and medical areas. It was also viewed in staff areas such as briefing rooms and break rooms. Prior to the audit, the auditor received a total of four (4) inmate letters. Two letters were from the same inmate while others seemed to be identical in nature. One letter was very specific regarding what the inmate alleged was retaliation in her case, and the auditor did ask to interview this inmate and select this inmate's files when completing the file and cases reviews. The last letter appeared to be in regards to issues that were not covered by PREA, and were other general facility complaints. Since this inmate did not request to be anonymous, her concerns were provided to the facility staff.

In addition, the auditor received a secured, encrypted flash drive from the PREA Coordinator the week of May 10, 2017. This had the PAQ and file information for the PREA Standards. While reviewing this documentation, prior to the on-site visit, it was seen that much of the paperwork required for the standards was not included. This made it extremely difficult for the auditor to prepare. The auditor sent numerous emails, prior to the on-site portion requesting documentation.

Rosters were provided to the audit team that includes staff, volunteers, contract workers and management. From these lists, the audit team selected, at random, the staff from each of the categories that were to be interviewed.

In addition, the audit staff used these rosters to randomly select HR files to review for contract staff, State employees and volunteers. All selections were made by the audit team, at random.

During the course of the on-site portion, a total of 32 staff were interviewed, this includes random staff and specialized staff. Staff were interviewed and selected from each housing and program area and from each shift. The auditors spent one night at the facility, arriving at 2000 hours to observe shift change and speak to those working on graveyard shifts.

Inmate rosters were provided to the auditor. This included a roster of the entire inmate population, a list of all that identify or are perceived to be LGBTI, all inmates involved in PREA investigations for the past twelve months, inmates who may require assistance (such as visually impaired, hearing impaired, developmentally delayed, etc). A total of 28 inmates were interviewed, this includes random and specialized inmates. The random selection of inmates is staff included at least two from each housing unit. Also, during the tour and subsequent visits, additional inmates (than those were previously selected) were questioned and informally spoke to. Two of these inmates asked to be interviewed and so they were called to be interviewed, alone, by the auditor.

A debrief was held prior to the auditors leaving the on-site portion of the audit. This included:

Jillian Shane, Certified PREA Auditor

Robin Bruck, Auditor Support Staff

Assistant Warden Paul

Assistant Warden W Stein

HR Manager Penny Swanson

DHO Mark Hartman

Agency PREA Coordinator, Andy Jess

Public relations Annamae Siegfried-Derrick

RO Katie Stockton

Charlotte Delezal, PCM

It should be noted, as the auditor believes it was in direct relation to the facility compliance and the emphasis on PREA, that the Warden was not present for the audit. The audit was scheduled months before, as based on a Memorandum of Understanding, and at no time was the audit team advised that the Warden would not be there nor were they asked to move the audit so the Warden be present. In addition, the PCM did not attend the opening meeting, the facility tour nor come to see the auditors on the first complete day of the audit. The PCM was on-site that first day, however, but she did not introduce herself nor interact with the auditors. Again, this is, in the opinion of the Auditor, a direct reflection of the seriousness that the management team places into compliance and the importance of the audits.

After the initial on-site audit in June 2017, the lead auditor reviewed additional documentation and found there to be 20 standards that required additional follow-up and/or corrective action. In addition to this number, the PREA Coordinator was set to retire and a new PREA Coordinator would be hired. Lastly, there was a change in Warden shortly after this visit. With all of these changes and corrective actions, the auditor and the acting PREA Coordinator, Michele Morgenroth (who after the hiring selection process was selected as the PREA Coordinator) decided that a follow up on-site visit would be conducted by the Lead Auditor and involve an additional review of the standards found non-compliant and in addition, would require additional staff and inmate interviews. A second SOW was developed and signed by both the State of Montana and the State of New Mexico outlining this follow-up second visit.

The second visit was conducted on October 23 and October 24, 2017. An entrance meeting was held with acting Warden Robert Paul, PCM Mark Hartman, and Agency PREA Coordinator Michel Morgenroth.

A closeout meeting was held on-site with the following in attendance both in person at the facility and on the phone with Central Office Staff:

PREA Audit Facility meeting 10/24/2017 Montana Women's Prison

Via Phone:

Reg Michael	Director
Paul Szczepaniak	Investigations
Kurt Aughney	Quality Assurance

In Person:

Jillian Shane	PREA Auditor
Michele Morgenroth	Quality Assurance
Rich Collins	Investigator
Robert Paul	Acting Warden
Alex Schroeckenstein	AW of Security
Mike Moorman	Lieutenant
Paul Law	Lieutenant
Time Hosa	Lieutenant
Quint Patterson	Lieutenant
Art Dolezal	Lieutenant
Mart Hartman	Facility PREA Coordinator
Charlotte Dolezal	Grievance Coordinator
Annamae Siegfried-Derrick	Community Relations Manager
Jerry Adolph	Kitchen Manager
Katie Stockton	Correctional Officer
Jessica Sosa	Administrative Assistant

While selecting documentation to review during the second site visit, the auditor had the facility run rosters from the date of the first visit, in June 2017 to the present (October 23) date. The auditor wanted to use this as a baseline to determine compliance. The auditor used those numbers to determine forward progress, since the first visit resulted in much new training, policy changes and new processes for staff. The rosters of inmates who arrived at the institution during that time period were used to review inmate intake screenings, referrals for behavioral health, and inmate education. Further, all new cases and allegations were reviewed to ensure that the new processes and trainings were implemented and being applied in an appropriate manner and in compliance with the standards.

The Auditor conducted a phone call interview with the Warden who was selected after the second visit to the facility. The phone conversation covered topics to include the importance of PREA, the corrective actions and culture observed by the audit team during each visit, and the forward movement of the facility. The Warden was extremely well versed in PREA and the history of this facility. She was enthusiastic about the positive changes in the facility. Lastly, she seemed to be very hands on Warden who would spend a good amount of time in the 'back of the facility' training, education, listening to and

supporting her staff. Due to the cultural based concerns identified during the first visit, it is the belief of the Auditor that this will be a positive compliment to the forward progress displayed by the facility.

Facility Characteristics

Montana Women's Prison in Billings is a 194-bed secure facility that operates consistently at or over capacity. This is the only female facility in the state which can sometimes create the numbers to increase above capacity. The state-run facility provides a secure environment that emphasizes accountability, productivity and personal growth.

Montana Women's Prison has a staff of about 92, including 20 contract personnel.

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

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

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

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

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

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

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

In partnership with the prison, correctional enterprises offer inmates vocational training opportunities through the prison industries program. Industries such as garment and apparel print-screening, direct-printing, design work and embroidery, as well as assembling hygiene kits for prisoners. The prison paws

program was started in 2004. It is a canine training program which allows inmates an opportunity to learn new skills and improve self-esteem while socializing canines, and teaching them basic manners so the canines are better community members. A garden project, launched in 2012, has enhanced the nutritional variety available to inmates and when an abundance of produce is available donations are made to the community food bank. The women who work in the garden and greenhouse can earn their master gardener certification in addition to life-skills and technical on-the-job training in greenhouse operations.

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

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

Summary of Audit Findings

Number of Standards Exceeded: 0

Number of Standards Met: 43

Number of Standards Not Met: 0

Summary of Corrective Action (if any)

Those standards, which required corrective action, are outlined below.

PREVENTION PLANNING

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

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

115.11 (a)

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

115.11 (b)

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

115.11 (c)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

- A. Montana Agency Policy Directive, DOC 1.1.17, Prison Rape Elimination Act of 2003, PREA, states that the Department of Corrections has a zero tolerance relating to all forms of sexual abuse and sexual harassment in accordance with the standards set forth in the Prison Rape Elimination of 2003. After going through the complete policy, interviews and discussion with agency level staff, it is evident to this auditor that the policy clearly outlines the agency's approach to preventing, detecting, and responding to such conduct.
- B. The Montana Department of Corrections Executive Management, at the Agency Level, has selected Andrew Jess as the Agency Level PREA Coordinator. After an interview with Mr. Jess and with working with him for the pre—audit and on-site audit portion, it was evident that he has sufficient time and authority to develop, implement, and oversee agency efforts to comply with the PREA standards in all of its facilities. Also reviewed was Montana Department of Corrections Organization Chart which shows that the PREA Coordinator position is of authority and in addition, the job description was reviewed.
- C. The standards states that where an agency operates more than one facility, each facility shall designate a PREA compliance manager with sufficient time and authority to coordinator the facility's efforts to comply with the PREA standards. The authority piece of this standard is where the auditor found non-compliance. PCM did not have completed investigations nor authority to know conclusion and correct identified problems. Follow up documentation needs completed following an investigations and cannot be if PCM is unaware. The PCM needs a direct line to the Warden and the authority to issue change/corrective action in the facility. Rework the facility organization chart for this area only, and a memo from Warden to all staff needs to be distributed. In addition, the PCM needs to be provided with all facility documentation as it relates to PREA.

CORRECTIVE ACTION AND FOLLOW UP: The Department reviewed and addressed the ongoing problem as it related to the PREA Compliance Manager (PCM) not having enough time to complete his duties, in addition to his other assigned primary job functions. The decision was made by Central Office for the Montana Department of Corrections to move a Full Time Employee Position to the facility for the role of PREA Compliance Manager. This was approved by the Director, Deputy Director, and Quality Assurance Office Director. An email was send to the audit of the job description and job positing in December. Once the staff is selected and this position is filled, the newly selected PCM will be trained by the Agency PREA Coordinator in their duties and work with the current PCM Mark Hartman to ensure a smooth transition. The

PREA Coordinator also is also looking for additional training from the PREA Resource Center to send this individual to, once selected. This position will report directly to the Warden for all PREA related matters.

It should also be noted that Andrew Jess, who was the Agency Level PREA Coordinator when the audit began, retired during the corrective action period. Michelle Morgenroth was hired as the Agency PREA Coordinator and finalized all corrective actions with the Auditor.

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

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

115.12 (a)

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

115.12 (b)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

A and B. The Agency has one contract for the confinement of inmates that it has entered into or renewed with a private entity or other government agency on or after August 20, 2012.

The Agency has a contract with Cascade County for the housing of inmates. The contract was reviewed and is dated in June of 2015. It illustrates compliance with PREA will be required and contract oversight will be completed.

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

- A. The MWP Annual Staffing Plan Review Meeting 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.

In addition, MWP Procedures Number 1.1.17 states in section C. 2. that the Warden and PREA Specialist 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.

- B. The facility policy and procedure do 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 Facility PREA Compliance Manager provided departmental rosters for review, which illustrates compliance with required staffing. The PAQ stated that during the twelve (12) month preceding the audit, there were no instances whereas MWP deviated from the staff plan.

- C. The facility provided a Annual Assessment review meeting summary along with a staff sign in sheet illustrating who was present during this meeting. All required staff was present. In addition, this annual meeting requirement is document in MWP Procedure 1.1.17, Attachment D and Section C. 2, where policy states that on an annual basis the PREA Specialist and the AW of Operations will complete the PREA Annual Staffing plan Review (attachment D).
- D. MWP Procedure Number 1.1.17 further states that Associated Wardens and Lieutenants will conduct and document unannounced rounds to identify and deter inmate and staff sexual abuse and sexual harassment. Tour shall be annotated in the Lieutenants Log. When conducting interviews with both staff and inmates, each stated announcements are regularly made by members of the opposite sex, when they enter the housing areas. Staff of the opposite gender does announce their presence when entering

housing units. Lieutenant Logs documenting unannounced supervisory rounds were provided and reviewed.

CORRECTIVE ACTION AND FOLLOW UP: Staff was educated via a memorandum and an email the need to document any deviations from the staff plan. Since no further instances occurred during the review period, the auditor could not review any proof documentation other than the recommended addition to procedure and education to staff, which the facility immediately completed. DOC Policy 1.1.17, page 3 now states that “in circumstances where the staffing plan is not complied with, facilities will document and justify all deviations from this plan”.

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 XXX 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

Not Applicable- No offender/inmate under the age of 18 has entered this facility in the past twelve (12) months.

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

- A. MWP Procedure 3.1.17B states that females must conduct searches of females except in emergency situations when a search must be conducted for the safety and/or security of the facility and there is no female staff to conduct the search. Visual body cavity searches will only be conducted by only health

care providers, excluding facility health care providers when there is a reason to do so and only with the written authorization of the administrator.

- B. This provision of this standard is not applicable as they have, since the start of the PREA standards, had a rated capacity exceeding 50 inmates.
- C. While the facility will only allow for same sex, female to female, strip searches absent exigent circumstances, as per procedure MWP 3.1.17b, section B. 8, all strip searches will be logged in the Shift Report in the Shift Supervisors Office. Sample of Shift Reports were reviewed to illustrate compliance.
- D. MWP Procedure 1.1.17 defines voyeurism by staff as an invasion of privacy of an offender by a staff member or service provider for reasons unrelated to official duties.

In addition, MWP Procedure Number 1.1.17 further states that Associated Wardens and Lieutenants will conduct and document unannounced rounds to identify and deter inmate and staff sexual abuse and sexual harassment. Tour shall be annotated in the Lieutenants Log. When conducting interviews with both staff and inmates, each stated announcements are regularly made by members of the opposite sex, when they enter the housing areas. Staff of the opposite gender does announce their presence when entering housing units. Lieutenant Logs documenting unannounced supervisory rounds were provided and reviewed.

Prison Rape Elimination Procedures outlines the process to which staff of the opposite gender must be announced when entering a housing unit. While conducting rounds throughout the facility both on the tour and without management during the audit, staff was viewed announcing opposite gender staff. Further, during all staff and inmate interviews, staff and inmates alike admitted that this is a common practice.

During the tour and subsequent visits to the housing units and search areas, the auditing staff viewed shower curtains, walls and various barriers that allowed for privacy for the inmate population. Some areas involved suggestions from the audit team to add additional curtains or raise privacy screens. The facility was prompt in making all suggested changes and provided the auditor with pictures and allowed the audit team to review prior to the departure of the on-site portion of the audit.

This provision of the standard states that the facility shall implement policies and procedures that enable inmates to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing. Such policies and procedures shall require staff of the opposite gender to announce their presence when entering the housing unit. A bathroom in the hallway is used by staff and inmates have direct viewing via two windows from two hallways. Showers in main building have a system whereas inmates put up a sign and move a 'flag' when in use. However, it was not being utilized and used incorrectly as observed during tour and as identified during staff and inmate interviews. This area is also a blind spot for staff and extremely dark when not in use and would allow for incidents to easily occur. Corrective action included securing door in between beauty shop and bathroom to allow privacy and make restroom a staff only restroom and label as such. Lastly, the facility agreed to have lights re-worked in inmate restrooms on main building to be motion activated.

- E. MWP Procedure states in section D.5. that staff are prohibited from searching or physically examining a transgender or intersex offender for the sole purpose of determining the offenders genital status. All random staff interviewed were aware of this requirement.
- F. As part of the staff training, MWP and the Montana DOC utilizes the National PREA Resource Centers *Guidance in Cross-Gender and Transgender Pat Searches*. Courses Training rosters were reviewed will illustrated samples of staff which took these classes. Lastly, staff interviews indicated that they were aware of the proper procedures and policies surrounding searches.

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

A. and B. Montana DOC Policy 3.3.15, Americans with Disabilities Act, states that Facilities and programs will adapt language in operational procedures to provide for accommodations to include, but not limited to, count, body searches, and offender orientation. MWP Procedure 1.1.17 states that the facility will provide inmate education in formats accessible to all inmates, including those who are limited English proficient, deaf, visually impaired, or otherwise disabled, as well as to inmates who have limited reading skills. A language help line is available for limited English speaking and deaf inmates.

C. This provision of the standards states that staff shall not rely on inmate interpreters, inmate readers, or other types of inmate assistants except in circumstances where an extended delay in obtaining an effective interpreter could compromise the inmate's safety, the performance of first response duties.

MWP Procedure 1.1.17 states in section E. 2, that staff will not rely on inmate interpreters unless an extended delay may compromise the inmate's safety, first responder duties, or the investigation into allegations.

During the on-site portion of the audit, no inmates with language or ADA accommodations were in the facility to interview. During the last twelve months, however, MWP has not had to utilize any interpreters.

Nearly all staff interviewed stated that they would allow the use of an inmate interpreter.

Re-educate staff via a memo of explanation and attachments of procedures to follow in the event an interpreter is necessary (use the language line which is available).

The facility sent a memorandum to all staff on August 24, 2017 which stated:

"Montana Department of Corrections has a contract with a company to provide Telephonic interpretation services and Braille transcription services (Cyracom International Inc). Language included but not limited to Spanish, Russian, German, French, Montana Native American Tribes (based on availability), Mandarin and Arabic. These services are available 25 hrs a day, 7 days a week, 365 days a year. To access services call: 1-800-***-****. We should not rely on inmates to act as translators for other inmates so please use this service if needed".

CORRECTIVE ACTION AND FOLLOW UP: Staff was educated via a memorandum which was distributed during staff briefings and an email the need to utilize professional services for all translations needed when it comes to PREA related matters and that they could not use an inmate interpreter. They were also provided with the information for telephonic interpretation services. Since no further instances occurred during the review period, the auditor could not review any proof documentation other than the recommended addition to procedure and education to staff, which the facility immediately completed. While on-site for the secondary and follow up visit, random staff of various levels (security, non-security and supervisory) were questioned on this requirement and indicated that they were aware of the proper procedure, the need to not utilize inmate interpreters and the location of how/where to get the information to utilize the proper interpretation service.

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

- A. Montana DOC policy 1.3.55 Criminal Conviction in Employment, indicates that all incidents of sexual harassment are considered in determining hiring or promotions. In addition, Policy 1.1.55 outlines in detail the process to hire staff and contractors and the guidelines thereto. All promotional candidates shall be made aware by the appointing authority that promotions are contingent upon successful completion of a background investigation outlined by Federal mandate in PREA Standard 115.17. Before hiring new employees who may have contact with offender, MDOC shall perform a criminal background records check; and makes it best efforts to contact all prior institutional employers for information on substantiated allegations of sexual abuse or sexual assault or any resignation during a pending investigation of an allegation of sexual abuse or sexual assault.

A sample job description was attached as well, which listed conditions of employment to include that they will not hire any individual who has engaged in sexual abuse in a prison or other institution. During the audit, seven more samples were reviewed.

In section A. 6. of policy, it states that for positions that may have contact with offenders, the department will; not hire, enlist the services of or continue to employ an employee or service provider who: 1. Has engaged in sexual abuse on a prison, jail, lockup, community confinement facilities, juvenile facility or other institution; 2. 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; 3. Has been civilly or administratively adjudicated to have engaged in the activity described above,; and 4. Has contact with you and is listed on the DPHHS child abuse registry.

A review of a Background Investigation checklist was provided as well as sample background investigations for various levels of staff to include state employees, contract workers and volunteers. During the on-site portion of the audit, the auditors randomly selected various staff that were new-hires, promotions and transfers for these requirements. The questionnaire attached includes screening questions for both employees and non-employees. NCIC's are conducted on each employee in addition to searches of numerous available local and state law enforcement entities.

B. Montana DOC policy 1.3.55, Criminal Conviction in Employment section A. 7, states that the Department will consider any incidents where an individual engaged in sexual harassment in determining whether to hire or promote or to enlist the services of anyone who may have contact with offenders. The auditor verified this practice with both the Agency HR staff and the Facility Level HR supervisor.

C. In this provision, it states that consistent with Federal, State, and local law, the facility shall make it 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.

The HR Supervisor indicated that she calls all previous employers and is satisfied that all will tell her the truth, via phone. The reference check form that was provided by the HR Administrator did not prompt nor document that previous institutional employers are asked if the staff member resigned during the pending of an investigation. Corrective Action for this portion which was not compliant, will include:

the HR Supervisor in Central Office will educate staff at this facility on the proper forms to use since MWP was using incorrect versions that did not include the proper questions; and go back one year and review all newly hires and re-complete this form.

The facility was given the correct version from the Department Central Office. As a corrective Action, the auditor asked that the facility go back one year and re-do this request for any new hire who may have had prior institutional employment. The facility forwarded to the auditor two staff that had previously worked in confinement settings. The called the previous employer and documented the response. Each of these staff members had no prior substantiated cases in regards to PREA related matters nor did they resign while a PREA related matter was pending investigation.

D. Montana DOC policy 1.3.55, Criminal Conviction in Employment states that the agency shall perform a criminal background records check before enlisting the services of any contractor who may have contact with inmates. While on-site, HR staff was interviewed and sample files were reviewed to show compliance.

E. Montana DOC policy 1.3.55, Criminal Conviction in Employment states that criminal background checks will occur every five years. Sample files were reviewed which illustrated compliance.

F. All staff and contractors sign documentation in which they are asked directly about previous misconduct in written applications or interviews and for hire and promotions. This is also completed in all interviews. Staff do not complete 'self evaluations' so this portion of this provision is not applicable. Staff also have an affirmative duty that is continuous, to disclose any such misconduct. Sample in the HR files were reviewed for this provision as well, and illustrated compliance.

G. Material omissions or providing false information regarding such misconduct outlined in this standard and in policy Montana DOC policy 1.3.55, Criminal Conviction in Employment, shall be grounds for termination.

H. The agency provides information to other agencies or facilities who inquire on substantiated allegations of sexual abuse or sexual harassment involving former employees upon receiving paperwork from an institutional employer for who such employee has applied to work. Most of these are sent directly to the Agency PREA Coordinator who verified the process to the auditor during his interview. Samples were also provided to the auditor to review.

CORRECTIVE ACTION AND FOLLOW UP: While on-site, the facility was given the correct forms from Central Office. The Auditor required that the review all new hires, transfers and promotions for the past year and if they indicated that they had prior correctional/confinements experience, that they complete this form for those individuals and prior employers. Of all reviewed, only one fell into this category with this previous experience. This process was completed for that individual, documented and sent to the auditor.

Standard 115.18: Upgrades to facilities and technologies

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

115.18 (a)

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

115.18 (b)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

A and B. Policy outlines the process for the planning office to review when designing any new facility and in planning any substantial expansion or modification of existing facilities. The agency considers the effect of the design, acquisition, expansion or modification upon the agency's ability to protect inmates from sexual abuse. In addition, Policy AR 421, states that video monitoring technology upgrades will consider the ability to protect inmates from sexual abuse.

MWP has not had any camera upgrades in the past three years. During specialty staff interviews, number staff stated that when placing cameras at any time, however, sexual safety as well as the privacy of inmates would be taken into consideration.

MWP has not had any expansion construction during the review period.

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 evidentiarily 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

A. and B. Policy 3.1.19, Investigations states, “the Chief of Investigations (COI) is responsible for:

- a. delegating all Department criminal investigations and assigning investigators accordingly;
 - b. upon receipt of criminal complaints involving Department property, employees, and offenders, notifying the Law Enforcement Agency of Jurisdiction (LEAJ); and
 - c. restricting access to any investigative material and pertinent resources to protect the integrity of the investigation and maintain confidentiality.
3. Investigators must:
- a. conduct fair and objective criminal investigations and exercise professionalism during the course of an investigation;
 - b. conduct investigations in such a manner that information is kept confidential and disclosed only with the approval of the COI or designee;
 - c. administer warnings to employees who are the subject of an investigation or participating in an investigation;
 - d. employ sound investigative techniques in accordance with state and federal law, Department rules, policies and procedures;
 - e. when they have reason to believe that false allegations were made, or uncover new allegations, refer such issues to the COI; and
 - f. complete specialized training prior to conducting sexual assault or other specialty type investigations.
4. Department employees are prohibited from engaging in racial profiling in accordance with *44-2-117, MCA*.
5. Administrators must provide investigators with unrestricted access to Department records including, but not limited to, documents; electronic recordings; and correspondence materials relevant to any criminal investigation.

A. Reporting and Handling Complaints

1. When a supervisor receives information that alleges a crime, he or she must submit, or direct the complainant to submit, the criminal complaint in writing to the COI.
2. The COI may, on a case-by-case basis, authorize an investigation when a verbal complaint is received.
3. Criminal investigations and administrative investigations are conducted separately. When it is unclear whether an incident is criminal or administrative in nature, Department employees will report the incident to the Office of Investigations. The OI will determine if a criminal investigation is warranted or will forward the information to the Office of Human Resources.
4. Only authorized persons shall make reports to the news media in accordance with *DOC Policy 1.1.8 Media Relations*.

C. Policy MWP Procedure 1.1.17 states that MWP Medical staff will offer assessments to all inmates involved in a sexual assault. Services will include, but are not limited to:

- a. If the incident took place within 72 hours, MWP medical staff will transport the inmates to an outside medical provider for additional assessment of potential sexual assault;
- b. If a Sexual Assault Evidence Kit is used, complete the MWP Patient Care Protocol form; the Office of Investigations or Law Enforcement Agency of Jurisdiction will take custody of the evidence, et al.

At the time of the onsite portion of the audit, the facility stated that they had zero SANE/SAFE exams completed in the past twelve months.

D. Policy MWP Procedure 1.1.17 states that MWP will provide victim services to inmates who are victims of sexual abuse or sexual harassment. Services must be made available without financial cost to the victim and must include, at a minimum:

- c. Access to medical examination and treatment to include follow up care and referrals;
- d. Mental health crisis intervention and treatment;
- e. Timely access to emergency contraception, STD prophylaxis, all pregnancy related tests and services and ;
- f. Access to a victim advocate or rape crisis center counselor who can offer emotional support services throughout the investigative process, or access to a qualified facility staff person.

Further, MWP has entered into a Memorandum of Understanding with the YWCA, which is a community based organization in the City of Billings. The MOU outlines the requirements of both MWP and the YWCA and meets all requirements for advocacy outlined in this standard.

- E. Policy MWP Procedure 1.1.17 states that MWP will provide Access to a victim advocate or rape crisis center counselor who can offer emotional support services throughout the investigative process, or access to a qualified facility staff person.
- F. An email was provided to the Auditor that was originally from the back-up PREA Compliance Manager and the Correctional Manager, Mr. Hartman. In said email, Mr. Hartman was inquiring to the Chief of the City Police in regards to the requirements of the section of the standard (and others). The Chief of Police stated that since MWP is a state facility, that the criminal investigations should be done by DCI. The Chief of Police also stated that DCI has a Billings Office and they 'too would meet the requirements'. As a corrective action, the facility shall reach out to DCI and clarify who will respond to these matters.
- G. An email was provided to the Auditor that was originally from the back-up PREA Compliance Manager and the Correctional Manager, Mr. Hartman. In said email, Mr. Hartman was inquiring to the Chief of the City Police in regards to the requirements of the section of the standard (and others). The Chief of Police stated that since MWP is a state facility, that the criminal investigations should be done by DCI. The Chief of Police also stated that DCI has a Billings Office and they 'too would meet the requirements'. As a corrective action, the facility shall reach out to DCI and clarify who will respond to these matters.
- H. An interview was conducted with staff at the Rape Crisis Center and the staff working as advocates are qualified and have received education concerning sexual assault and forensic examination issues in general.

Documentation was also provided to the auditor which states that Chief St. John from the Billings Police Department will continue to respond to and investigate cases and MWP. The Chief also stated that the Billings PD follows all standard evidence protocols.

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

- A. Policy MWP Procedure 1.1.17 and interviews with various levels of staff to include the facility level investigator, the Chief Investigator for the State as well as during Shift Supervisor and Warden interviewed, indicated that MWP shall ensure that an investigation is completed for all allegations of sexual abuse, sexual assault and sexual harassment and will ensure that for all cases alleging criminal behavior, they are referred for investigation to an agency with the legal authority to conduct criminal investigations. Policy states that all investigation will be conducted by the Local Law Enforcement Agency (LEAJ) for the Facility, Billing Police Department unless the LEAJ declines to investigate or otherwise relinquishes authority to conduct the investigation to the Department. Typically, the LEAJ would decline to investigate if and only if they see no criminal act has taken place.
- B. Policy MWP 1.1.17 states that all investigations will be conducted by the LEAJ unless the LEAJ declines to investigate or otherwise relinquishes authority to conduct the investigation to the Department. The Standard states that the agency shall have in place a policy to ensure all allegations of sexual abuse or sexual harassment are referred for investigations and that such notifications should be documented.

No documentation was seen in all the investigations illustrating that potential criminal activity was referred to outside law enforcement agencies. As a corrective action, the facility will retrain and educate the investigators on this process and document and Review cases for past year and complete a notification on the cases of abuse. During the past twelve months, the PAQ states that the facility had 68 administrative investigations and zero criminal investigations as they related to sexual abuse.

- C. Policy outlines the responsibility of both the investigation agency and the Agency.
- D. And E. Agency Policies Criminal Investigation, 3.1.19 and Administrative Investigations, 1.3.13 outline these requirements.

CORRECTIVE ACTION AND FOLLOW UP: The PREA Coordinator reviewed all PREA cases at MWP and saw that based on this standard and the other standards that relate to investigations (115.22, 115.34, 115.71, and 115.72) needed corrective action. For that reason, the corrective actions detailed here are applicable to all four of these standards.

The Agency Level Chief Investigator developed and delivered a state specific investigation protocol and training. This included the process for investigation referral, case assignment, investigation process, report writing, review by Agency oversight staff, and final case outcome determination by Central Office. This training was delivered to all facility level investigators at MWP in a classroom setting. Documentation to

include PowerPoint, case samples, report template, policy revision request, sign in sheet and certificates was forwarded to the Auditor for review. Verification of classroom training was followed-up with a written exam and a report writing sample from all participations for successful completion. This was completed by December 8th, 2017 and forwarded to the auditor for review. Five MWP staff was present as well as staff from other facilities. The training roster was forwarded to the Auditor as well.

Central Office assigned a Department Investigator as the oversight for MWP investigative matters. This individual will make and notify the facility of monthly visits (at a minimum). During these visits, the Department Investigator will review open cases, conduct training or mentoring as necessary, complete cases, meet with law enforcement, and verify any documentation or interviews as necessary. Rich Collins is the assigned investigator. He emailed the PREA Coordinator a summary report of any PREA related work completed at the facility during his monthly visits. These were forwarded to the auditor. The first visit was November 27-29, 2017 and documentation of the visit was sent to the auditor to review.

The Agency created a flow chart/process indicator map of the investigation process from referral from the facility, assignment by the agency, investigation paperwork and process, completion of the case, review of final report and supporting documentation and Agency follow up. This was educated to the staff to ensure they understand the process at the facility. These will be provided to all PCMs and will be included in all future investigations training. They were sent to the auditor to review on December 6, 2017.

The Department Investigator and PREA Coordinator will continue to review all cases (facility level and Agency level) that are completed at MWP as final approving authority. These changes/updates were added to Department Policy and were forwarded to the auditor in draft form. The Auditor acknowledges that policy review and approval takes significant time. The changes in Draft form with the routing will suffice once staff is educated.

The PREA Coordinator reviewed all cases that were investigated in the twelve months preceding the first onsite portion of the audit to present. During the review, she consulted with the Department Investigators, HR Specialists, and facility staff for any follow up or concerns that was identified. She also ensured any necessary referrals to outside law enforcement should any criminal components be identified. These reviews were documented and forwarded to on December 22, 2017.

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

- A. MWP Procedure 1.1.17 outlines the need for training and which topics will be covered. A training catalog was reviewed which illustrated refresher course in PREA. The Refresher lesson plan was also reviewed, and it included all relevant topics and required areas of education. Sample rosters and sign in sheets were reviewed to illustrate that this is being completed. During the staff interviews, all staff mentioned the training that they received and recalled various required topics within the class. Staff were most impressed with the training that was completed by the Agency Level PREA Coordinator and stated that this training was very well put together, provided excellent samples and was very interesting.

As required by the standard, the PowerPoint's and Lessons plan cover topics such as:

- Policy on Zero Tolerance;
- How to fulfill your responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting and response policies and procedures;
- Inmates Rights to be free from Sexual Abuse and Sexual Harassment;
- The Dynamics of Sexual Abuse in Prison;
- Identifying Possible sexual abuse victims;
- The five phases of sexual assault;
- Sexual abuse prevention strategies;
- Reporting incidents of sexual abuse;
- The right of employees and inmates to be free from retaliation for reporting sexual abuse;
- Investigations of Incidents of sexual abuse;
- Preservation of evidence in Sexual abuse investigations; and
- Communicating with LGBTI inmates.
- Relevant mandatory reporting laws

- B. The training was tailored towards a female population, as that is the gender make up at MWP. It did, however, speak of the dynamics of both male and female populations.
- C. Documentation was provided that 100 percent of staff was trained. While on-site, the audit team randomly selected twenty staff members are requested to review their training documentation. All random selections were compliant. In addition, through staff interviews of all levels of employees, it was clear that staff were aware and educated on the requirements of 115.31 A.
- D. All training are documented on a staff sign in roster, by staff signature of acknowledgment and in an electronic training record of all classes taken which were printed and review by the auditor of the randomly selected staff.

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

- A. MWP Procedure 1.1.17 outlines all required topics to which are required to be instructed in training for all service providers (which includes volunteers and contractors). The PowerPoint was attached for each as well. It covers a review of the administrative regulation, zero tolerance, how to fulfill their requirements under the policies and procedures, information on reporting and responding to such incidents, recognition of warning signs of a victim, information related to the investigation of incidents and prosecution of perpetrators, common reactions of victims, sensitivity to offender allegations, offender rights to be free, how to communicate effectively with LGBTI and gender non-conforming, signs or predatory behavior, confidentiality, compliance with relevant laws to mandatory reporting and consequences for failure to report.
- B. An updated list was provided to illustrate that all volunteers and contracted workers have completed their annual training, which includes a PREA instructional class. Each individual who completes this class documents it on an acknowledgment sheet. Samples were reviewed and illustrate compliance. As of the date of the audit, 100 percent of Volunteers and contractors had been trained. Randomly selected volunteer Acknowledgment Forms were selected by the auditors and provided. All illustrated compliance.
- C. A Corrections Training Roster for each class is developed by Office of Human Resources and the volunteers and contractors all sign. Volunteer and Contractor names were selected from the approved list and their training documentation acknowledgment rosters were provided and reviewed.

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

- A. MWP Procedure 1.1.17 states that inmates shall receive information explaining the agency's zero-tolerance policy regarding sexual abuse and sexual harassment and how to report. In addition, Policy outlines the process of offender education that needs completed within thirty (30) days of intake.

Videos were observed which outline reporting processes, the policies and zero tolerance of the MDOC and all definitions regarding PREA.

Inmates are also provided with an informational brochure. Information and educational facts are also in the inmate handbook.

During the past twelve months a total of 163 inmates were admitted to MWP and received this information upon intake.

- B. Within 30 days of intake, the agency shall provide comprehensive education to inmates 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 agency policies and procedures for responding to such incidents. After randomly selecting inmate files, it was evident to the auditor that inmates are not receiving video (comprehensive education) within 30 days. In addition, inmates interviewed stated that they were not provided with an in person or video training after intake.
- C. Current inmates who have not received such education shall be educated within one year of the effective date of the PREA standards, and shall 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. Inmates here prior to the effective date of the standards have not been trained. MWP Staff ran a roster of inmates incarcerated prior to that date and their inmate files were reviewed. There was no documentation that these inmates were ever trained. For the corrective action on this standard, MWP will re-train all inmates that were provided on the list that were here prior to 2012. Twenty-two inmates who were here prior to 2012 have never received comprehensive training as of the date of the audit. The facility will forward to the auditor all incoming inmate rosters, for the review period and documentation that they are provided the comprehensive training within thirty (30) days. All inmates were immediately trained as a result of this finding. The documentation of this training was forwarded to the auditor on June 19, 2017 and illustrated full compliance.

E. The facility has each offender who received the educational handouts and who receive the education sign an Offender PREA Acknowledgment Form. The form states that the inmate has received a copy of DOC policy 1.3.12, Staff Association and conduct with Offender, DOC Policy 1.1.17, Prisons Rape Elimination Act, and DOC Policy 3.3.3, Offender Grievance Program; have read or had these policies read to me and understand the policies terms and directives; understand that I have a right to be free from sexual abuse, sexual harassment and retaliation for reporting such incidents, and; have been informed on how to report such incidents. Samples of randomly selected inmate files were reviewed and illustrated compliance with the initial providing of information yet not the comprehensive education.

F. Policies, posters, flyers and materials were reviewed all around the facility which illustrated to the auditor that information is continually available to the inmates. In addition, the inmates are provided copies of the policies mentioned above and the inmate handbook to keep in their possession so they can review continuously.

CORRECTIVE ACTION AND FOLLOW UP: The facility began sending the auditor bi-weekly updates of all intakes of the facility. In this documentation, the auditor was provided a list of the inmate name and number, the date of intake, and the date with which the inmate took the orientation class. All inmates reviewed illustrated that they took the intake orientation within the thirty day period for comprehensive education. Many, in fact, are completed within a two week period after intake.

The facility had various posters and educational information translated into Spanish as part of their corrective actions. These translated versions were forwarded to the auditor and placed throughout the facility.

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

- A. MDOC Policy 3.1.19 states that investigators shall receive and complete specialized training prior to conducting sexual assault or other specialty investigations.

- B. The auditor was not provided with a sample or a PowerPoint to review to ensure that all requirements of this substandard are included.

- C. The auditor was not provided with a sample acknowledgment sheets or documentation that this training was completed. The PAQ indicated that there is currently five investigators who were trained in this class.

More specifically, the standard states: (a) In addition to the general training provided to all employees pursuant to § 115.31, the agency shall ensure that, to the extent the agency itself conducts sexual abuse investigations, its investigators have received training in conducting such investigations in confinement settings.

(b) Specialized training shall include 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) The agency shall maintain documentation that agency investigators have completed the required specialized training in conducting sexual abuse investigations.

(d) Any State entity or Department of Justice component that investigates sexual abuse in confinement settings shall provide such training to its agents and investigators who conduct such investigations.

The HR Investigator, who is the primary PREA matter investigator, stated she did not take. All investigations reviewed where by this same staff member although five people were listed as being certified to conduct such investigations. While the facility was able to locate her certificate, based on the answers provided, she did not retain the knowledge if she did take. She was unaware of the possible outcomes, preponderance of evidence requirements, and evidence collection.

CORRECTIVE ACTION AND FOLLOW UP: MWP will provide a re-take of the class for all investigators; provide a test to all investigators to ensure comprehension; be provided Agency level review of all PREA related cases so that an outside department is reviewing and providing expertise into matters regarding sexual abuse and assault.

On October 13, 2017, a list of all investigators was provided to the auditor as well as the training certificates and acknowledgments for each to illustrate that they took the training. Each took seven hours of online training through the National Institute of Corrections: a three hour class entitled *PREA, Investigating Sexual Abuse in a Confinement Setting* and a four hour class entitled *PREA: Investigating Sexual Abuse in a Confinement Setting, Advanced Investigations*.

Please also see the corrective action for standard 115.22, as it ties into and provides further details of additional training. In addition, MDOC created a SharePoint Database whereas the facility must enter all allegations into the system and an automatic notification is given to the PREA Coordinator and the Chief Investigator for MDOC. This system went into production on September 15, 2017. The PREA Coordinator walked the auditor through various cases and illustrated the notification process and oversight review that both she and the investigators will have over each facility case. In addition, various 'screenshots' were sent to the audit to illustrate the capabilities of this system and its tracking.

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

A. MWP Procedure 1.1.17 states that medical and mental health staff shall be trained and that this training shall be documented. The training includes: how to detect and assess signs of sexual assault/rape, sexual abuse and sexual harassment; how to preserve physical evidence; how to respond effectively and professionally to victims; and how to and who to report incidents to. Staff takes the NIC online training at this website: <https://nic.learn.com/learncenter.asp?sessionid=3-4451CD03-D2F2-4423-AC81-C6F27FFE417F&DCT=1&id=178409&page=75>.

B. The agency shall maintain documentation that medical and mental health practitioners have received the training referenced in this standard either from the agency or elsewhere. The auditors randomly selected some medical and BH staff and asked for documentation that they received said training. Of the six selected, three did not have documentation.

As part of the corrective action for this standard, the facility will retrain all medical staff; Provide all training documentation; and develop a process to ensure that newly hired staff receive this training and that the documentation is provided to the PREA staff.

C. While onsite, the auditor selected three Mental Health and medical employees to review their training. The facility could not locate three of the training files and indicated that they emailed the HR department at the Agency level to request the required information.

Certificates were forwarded after the audit that included certificates of the staff trained. MWP has 3 mental health staff and 7.5 medical staff positions at MWP, all of which has since been trained. During a re-visit as part of corrective action, the auditor will re-interview a sample of staff to ensure they retained said information.

D. The agency shall maintain documentation that medical and mental health practitioners have received the training referenced in this standard either from the agency or elsewhere. The auditors randomly selected some medical and BH staff and asked for documentation that they received said training. Of the six selected, three did not have documentation.

CORRECTIVE ACTION AND FOLLOW-UP: As part of the corrective action for this standard, the facility retrained all medical and mental health staff; all documentation of this was provided to the auditor; and moving forward, the HR department will ensure that the PCM is aware of newly hired staff so they receive this training and that the documentation is provided to the PREA staff and their HR/Training files.

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

- A. Offender screening and placement is upon intake and their arrival into a reception and again upon transfer between facilities, as per MWP Procedure 1.1.17. During the assessment, all offenders will be screened for risk of being sexually victimized or sexually aggressive.
- B. The facility intake screening shall ordinarily take place within 72 hours of arrival at the facility and will be conducted using the Assessment, according to MWP Procedure 1.1.17.
- C. The screening tool was reviewed and the Agency PREA Coordinator detailed the scoring and outlined its objectivity with the Auditors.
- D. The screening tool did consider:
 - a. Whether the inmate has a mental, physical, or developmental disability;

- b. The age of the inmate;
 - c. The physical build of the inmate;
 - d. Whether the inmate has been previously been incarcerated;
 - e. Whether the inmates criminal history is exclusively nonviolent;
 - f. Whether the inmate has prior convictions for sex offenses against an adult or a child;
 - g. Whether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex or gender nonconforming;
 - h. Whether the inmate has previously experienced sexual victimization;
 - i. The inmates own perception of vulnerability; and
 - j. Whether the inmate is detained solely for immigration purposes.
- E. The intake staff reviewing and completing the screening, as well as the PREA Compliance Manager consider prior acts of sexual abuse, prior convictions for violent offenses and history of prior institutional violence or sexual abuse, as know to the agency, in assessing the inmates risk for being sexually abusive. This information was illustrating to the auditor through interviews with the applicable staff and reviewing housing roster and considering the screenings that have been completed timely.
- F. According to MWP Procedure 1.1.17, section 6. B., reassessment will occur within thirty days of intake into the facility and when warranted thereafter based on any new information. During the audit, based on the inmate rosters provided by the PCM, the auditors selected 22 inmates at random to review their inmate files to see their inmate intake date, their education acknowledgment, their 72 hour screening and their 30 day screenings. These files were reviewed and of the 22 selected of the 205 inmates housed at the time of the audit, only six met all of the requirements of this standard and sixteen were non-compliant with either the 72 hour screening, or the 30 day screening, or both.

In addition, during the inmate interviews, many but not all inmates recalled being screened upon intake. Some stated they do not recall it within 30 days but it is sometimes done during the year.

- G. MWP Procedure states that reassessment will occur within thirty days of intake into the facility and when warranted thereafter based on any new information. No samples, however, could be provided to the Auditor.
- H. During interviews with staff, they indicated to the auditor that inmates would not be disciplined for refusing to answer, or for not disclosing complete information in response to questions asked on the screening. This is also found in Montana DOC Policy 1.1.17, Section C.6.
- I. Based on staff interviews and a review of the inmate records areas and computer programs utilized, it was evident to the Auditor that appropriate file controls existed 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 inmates detriment by staff or other inmates.

CORRECTIVE ACTION AND FOLLOW UP: After the first on-site visit in June, for corrective action on this standard, the facility:

- Retrained medical and intake staff of requirements of this standard, document training and forward to the auditor.
- Forwarded to auditor a bi-weekly intake list and 72 hour screenings.
- As the 30 days approached for each inmate intake date, the facility forwarded to auditor to review

The facility began to send the auditor a list of all intakes into the facility from the date of the first on-site review. The auditor compared the intake date to the 72 hour initial screening and the thirty day follow up screening assessment to ensure compliance. The auditor noted at most initial assessments were completed on the first day of arrival into the facility (less than 24 hours). The thirty day follow up assessment screening was completed timely for all reviewed.

After the second visit by the Auditor, in October, while on-site, the auditor reviewed all intake files for all 69 inmates who entered this facility between June 15 and October 23, 2017. Of the 69 files, 11 were out of compliance with the required 72 hour screening deadline and 3 out of the 59 inmates who were here for more than 30 days, 3 were non-compliant.

The facility will create a simple tracking spreadsheet which details the inmate's name, DOC ID number, intake date, initial 72 hour screening date and 30 day follow up screening date. Every Monday, Wednesday and Friday these will be sent to the Warden to review and ensure compliance. Every two weeks, they will be forwarded to the Agency PREA Coordinator and the Auditor to review (beginning November 10). Any non-compliant 72 hour or 30 day assessment, must all have attached a employee discipline or documentation for the reason for the tardy assessment.

- a. A SharePoint database was designed to assist the facility in tracking this information. All staff involved in screening and mental health follow-up will have access to the database and will be trained on screening and use of the database.
- b. Until the database and training are implemented, the PCM and Warden will be responsible for ensuring timely completion and review of screenings and forwarding to the auditor and PREA Coordinator.

The PREA Coordinator trained facility staff on November 7, 2017 to use the SharePoint site. The PCM has been trained on how to pull reports from the SharePoint site to send to the Auditor. Documentation for the training was sent to the Auditor on November 7, 2017 and bi-weekly reports ran from this system was also sent to illustrate compliance and timely screenings.

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

- A. Information obtained from the assessments will be used to inform housing, work, bed and education/programming assignments with the goal of keeping separate those offenders at high risk of being sexually victimized from those at high risk of being aggressive, as per DOC Procedure 1.1.17, Section IV, B, 7.
- B. Montana DOC Policy 4.2.1 states that to make detailed assessments, staff will solicit information from courts, social service agencies, pre-sentence investigative reports, and other sources to ensure the broadest possible range of information is available on which to make classification decisions (Section B.2).
- C. Interviews with the PREA Coordinator, PREA Compliance Manager and various staff indicated that transgender and intersex inmate placement will be determined on a case by case basis. As correction action, this language should be clear in policy and trained to staff.
- D. Montana DOC Policy 1.1.17, Prison Rape Elimination Act states that placement and programming assignments for each transgender or intersex inmate will be reassessed at least twice per year to review any threats to safety experienced by the offender.
- E. Corrective Action: The auditor did not find this section in policy nor was any documentation provided to the auditor to support compliance. Staff was unaware during interviews.

The housing lieutenant is the person who completes all housing assignments and moves at this facility. While interviewing him as to the utilization of the PREA risk assessment information when determining housing, he was unaware of this requirement and stated that he did not do this.

As part of the corrective action, a meeting was held on August 31, 2017 with all Lieutenants at the facility. During the meeting and according to the meeting minutes sent to the Auditor, the following was stated:

“PREA: medical PREA Assessments. LTs and Charlotte (PCM) will be notified when a potential victim or potential predator has been identified. When housing inmates, we must check ‘cautions’ in OMIS 3. Even if it has a ‘0’, click ‘caution’ because there might be information there. Make sure this is checked before a room move is done. This will insure that separations are met. If an inmate has an ADA accommodation and a PREA designation, it will not be visible on the count sheet. If you see a comma behind ADA there is likely a designation. There are packets ready to go in the LT’s office in the PREA binder if you are unable to use the computer. This packet will have updated forms available if a PREA incident occurs. “

In addition, changes were made to MWP 3.1.11 c, Procedure, *Inmate Room/Pod Moves* to states that, he Warden, Associate Wardens and Shift Lieutenants may reassign or not reassign any inmate at any time for safety and/or security or institutional need and will:

1. Check PREA designation in OMIS 3 under cautions,
 1. Potential and know (sic) predators cannot be placed in cells with potential and known victims.

During the second visit on-site, the Auditor interviewed the Housing Lieutenant and he was aware of the requirements and where to locate this information to determine housing, as per 115.41.

In addition, Policy DOC 1.1.17, *Prison Rape Elimination Act of 2003*, now states on page 3 and four that “in deciding whether to assign a transgender or intersex offender to a facility, and in making other housing and programming assignments, the Department will consider, on a case by case basis the placements effects on the offenders safety, whether the placement would present management or security problems and whether such placement would likely endanger the safety of other offenders. A review committee consisting of a qualified health care professional, qualified mental health care professional, PREA Coordinator, chief legal counsel or designee, and the Montana State Prison and Montana Woman’s Prison wardens or designees will determine the appropriate facility placement of transgender or intersex offenders based on their review of all relevant information”. The policy lists all things that will be review and further states that placement and programming assignments for transgender and intersex offenders will be reassessed at least twice each year to review any threats to safety experienced by the offender. Lastly, the policy addition states that a transgender or intersex inmates own views with respect to his or her own safety will be given consideration.

Policy DOC 1.1.17 also states now that transgender or intersex inmates will be given the opportunity to shower separately from other offenders either through physical separation by separate shower stalls or by time phasing or scheduling of showers.

Standard 115.43: Protective Custody

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

115.43 (a)

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

115.43 (b)

- Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Programs to the extent possible? Yes No
- Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Privileges to the extent possible? Yes No
- Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Education to the extent possible? Yes No

- Do inmates who are placed in segregated housing because they are at high risk of sexual victimization have access to: Work opportunities to the extent possible? 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

- A. Offenders identified as high risk for sexual victimization shall not be placed in involuntary segregation unless an assessment of all available alternatives has been made, as per MWP Procedure 1.1.17. If the facility cannot conduct such an assessment immediately, the facility may hold the offender in involuntary segregated housing for less than 24 hours while completing the assessment
- B. Further this policy and procedure states that should that be the only alternative, inmates placed in this type of housing shall be afforded programs, privileges, education, and work opportunities to the best extent possible.
- C. Lastly, this shall only be done, for a limited time until alternative means of separation can be completed, ordinarily not to exceed thirty days.
- D. Policy 3.5.1, Facility Operations states that Adult facility operational procedures will include the following requirements:
 - a. there will be a documented process to admit an offender to a locked housing unit. Offenders may only be admitted when there is documentation that this status is warranted and no reasonable alternatives were available;
 - b. the classification committee or other authorized staff group will conduct a status review of offenders in administrative segregation and special management units every 30 days.
- E. Policy 3.5.1, Facility Operations states that Adult facility operational procedures will include the following requirements:
 - a. there will be a documented process to admit an offender to a locked housing unit. Offenders may only be admitted when there is documentation that this status is warranted and no reasonable alternatives were available;
 - b. the classification committee or other authorized staff group will conduct a status review of offenders in administrative segregation and special management units every 30 days.

CORRECTIVE ACTION AND FOLLOW UP: As per the file review, the facility stated that during the year prior to this audit, there were no instances when an offender was identified as being high risk for victimization and as a result, no offenders were involuntarily segregated. However, an inmate sent a letter to the auditor and during interview while onsite, stated that she was housed in segregation for 67 days after reporting feeling scared for her safety as its related to PREA. Initially, she asked for PC but she then made numerous requests (which were reviewed by auditors) to be released from this housing unit and be placed back in GP and away from the person she made allegations against. When auditor requested segregation reviews and placement documentation, none could be provide. For corrective action on this deficiency, staff immediately placed them in back to GP and the Agency PREA Coordinator was going to look at providing the inmate back pay, since the inmate had a high paying job prior to being placed in segregation. In addition, the facility will re-train and educate staff and implement a segregation review process to include PREA staff and forward to the Auditor for review.

The Department reviewed and compared their local segregation review policy and ensure that it is in compliance with the Agency policy. All segregation review documents and reviews will include PREA staff for PREA related matters to ensure that those inmates' victims are not housed in segregation for longer than necessary even if it

is at the inmate's request. The facility forwarded reports related to any inmates placed in segregation during the review period.

The updated policy, MWP 4.2.1, *Inmate Classification System* now states on page 8, that "the respective locked housing case manager must conduct locked housing status review plan of all inmates currently classified to maximum custody and administrative housing status every thirty days using a Locked Housing Status Review Plan Form. This included the following: inmates currently classified to maximum custody and administrative housing status will be considered for general population placement during their 30 day review on a case by case basis and if the Classification staff determined general population or other lock housing placement is appropriate, they will conduct a reclassification hearing using the Custody Classification Instrument".

All retaliation monitoring documentation was sent to the PREA Compliance Manager and Warden on a bi weekly basis beginning November 10, 2017, to ensure that all items are followed up on. Concerns that appear to be retaliatory or require follow up were thoroughly documented or sent up for referral for a subsequent investigation. At the end of each month during the corrective action period (due on Oct. 31, Nov. 30, and Dec. 29), the PCM sent documentation of retaliation monitoring and follow-up documentation on any concerns to the PREA Coordinator and the Auditor to review. The Auditor reviewed each and was able to see 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? Yes No
- Does the agency provide multiple internal ways for inmates to privately report: Retaliation by other inmates or staff for reporting sexual abuse and sexual harassment? Yes No
- Does the agency provide multiple internal ways for inmates to privately report: Staff neglect or violation of responsibilities that may have contributed to such incidents? Yes No

115.51 (b)

- Does the agency also provide at least one way for inmates to report sexual abuse or sexual harassment to a public or private entity or office that is not part of the agency? Yes No
- Is that private entity or office able to receive and immediately forward inmate reports of sexual abuse and sexual harassment to agency officials? Yes No

- Does that private entity or office allow the inmate to remain anonymous upon request?
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

A. MWP Procedure 1.1.17 Prison Rape Elimination Procedure outlines reporting procedures for inmates. Staff are to take verbal reports, third party reports, and anonymous reports seriously. All staff interviewed were aware of this requirement. According to the procedure, inmates are encouraged to report allegations of sexual abuse and sexual harassment. The sooner the incident is reported and the more specific the information, the more likely the evidence will be present to aid in an investigation and disciplinary actions or criminal prosecution. Inmates who are victims of or have knowledge of sexual abuse or sexual harassment should immediately report the incident by one of the following methods

1. Report the incident to a staff member verbally or in writing, anonymously or through a third party;
2. Utilize the lock box formal grievance procedure in accordance with MWP Procedure 3.3.3;
3. Use the Telemate inmate phone system, dial 9 and a message is sent to a Department employee.

This information is available to the inmates through posters throughout the facility, through the inmate handbook, through an informational brochure and through discussions at intake and comprehensive education.

While onsite, the Auditor tried the phone method from an inmate phone and dialed 9 to test this system. A text was immediately sent the Agency PREA Coordinator and was shown to the auditor on his cell phone.

- B. Inmates can also use the Department approved free and confidential telephone hotline, operated by an external Agency. The auditor tested this phone method and the call was answered by the YWCA and the auditor asked if an inmate could remain anonymous if she requested. The answering service indicated that yes, they can be anonymous and they immediately forward the information to the Agency. This was observed and shown to the auditor and was an immediate process.
- C. Policy MWP 1.1.17 also states that staff shall accept report made verbally, in writing, anonymously, and from third parties and shall promptly document any verbal reports. All staff interviewed were aware of this requirement and samples were shown to the auditor which illustrated the immediate generation of a written incident report/memo.
- D. Staff are able to anonymously report through the same phone reporting mechanism of the YWCA that they inmates are able to use. They can call through the facility phones or from an external phone system. Staff interviewed was aware of this method as well.

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

- A. Through G. The grievance procedure policy, DOC 3.3.3, states that time frames for allegations of sexual abuse, regardless of when the incident is alleged to have occurred. Inmates are not required to use an informal grievance process, or to otherwise attempt to resolve with staff an alleged incident of sexual abuse.

In addition, policy states that allegations of sexual abuse will not be referred to a staff member who is the subject of the accusation of sexual abuse.

Policy states that there is no time limit on the filing of a grievance of sexual abuse. Also, a final decision on the merits of any portion of the grievance alleging sexual abuse must be issued within 90 days of the initial filing. If the 90 day time period is insufficient for a response, an extension of up to 70 days may be allowed to respond. The offender will be notified in writing of such an extension.

The agency may discipline an inmate for filing a grievance related to an alleged sexual abuse only where the agency demonstrates that the inmate filed the grievance in bad faith.

In the twelve months prior to this audit, there were four grievances filed relating to sexual abuse or sexual assault. All were answered within 90 days.

Copies of all grievances referencing PREA allegations are to be forwarded to the Facility PREA Coordinator and will go through the investigation process.

Inmates are provided 'New Arrival Information' at intake which details this process.

MWP has not processed any grievances alleging sexual abuse that involved extensions because a final decision was not reached with ninety days, nor were there any cases where MWP requested an extension.

MWP received no grievances alleging sexual abuse filed by inmates in the past twelve months in which the inmate declined third-party assistance or containing documentation of the inmate's decision to decline.

MWP received no emergency grievances nor non-emergency grievances alleged substantial risk of imminent sexual abuse filed in the past twelve months. In addition, since no grievances were filed, no disciplinary action was issued due to an inmate filing in bad faith.

Standard 115.53: Inmate access to outside confidential support services

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

115.53 (a)

- Does the facility provide inmates with access to outside victim advocates for emotional support services related to sexual abuse by giving inmates mailing addresses and telephone numbers, including toll-free hotline numbers where available, of local, State, or national victim advocacy or rape crisis organizations? Yes No

- Does the facility provide persons detained solely for civil immigration purposes mailing addresses and telephone numbers, including toll-free hotline numbers where available of local, State, or national immigrant services agencies? XXX Yes No
- 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

A. MWP Procedure 1.1.17 outlines the reporting process to include phone numbers for offenders to call. These phone numbers are likewise posted in all housing units, in the dayrooms and in various other places throughout the complex.

A contract was provided that exists between MDOC and an Emotional Support Services Provider. The Contractor provides case management, advocacy, counseling, crisis support and can make a report for the inmate.

B. Inside the inmate handbook there is PREA information that details the reporting process as well as access to internal and external resources. This was reviewed in advance of the audit and seen on display during the tour. This number is displayed on posters, pamphlets, the inmate's handbook, policy, staff

informational handouts, and in policy. Test calls were made to this number inside the pods. The individual who answered confirmed that these calls were not recorded.

The Flier, however, for these services does not state the level of confidentiality. For the corrective action on this part of the standard the facility will edit flier and add to handbooks and fliers the extent to which are confidential or monitored.

CORRECTIVE ACTION AND FOLLOW UP: The flier was edited and additions were made to it that explained to the inmate population the level of confidentiality for these support services. The MOU was re-signed and forwarded to the Auditor which outlined these changes. The updates to the flier were distributed to the entire inmate population. In addition, inmate's signature acknowledgment sheets, which were randomly selected by the Auditor, were forwarded to illustrate that they received this updated information.

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

MWP Procedure 1.1.17 states that reports of sexual assault/rape, sexual abuse, sexual misconduct and sexual harassment can be made by a third-party on behalf of an offender by contacting the facility or the Agency. All of this information is provided to the inmate via multiple educational materials and to inmate families via the public website.

The agency shall establish a method to receive third-party reports of sexual abuse and sexual harassment and shall distribute publicly information on how to report sexual abuse and sexual harassment on behalf of an inmate.

No information was available to visitors or third parties so they can be aware of how to report. For corrective action on this standard, the facility added information to the public web on third party reporting, added information to inmate handbook and handouts and posted in visitation areas. All information was sent to the Auditor to review.

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

- A. DOC employees, contract workers and volunteers, according to MWP Procedure 1.1.17, shall accept reports made verbally, in writing, anonymously, and from third parties and shall promptly document any verbal reports and shall immediately and confidentially report to their supervisor or the Security Lieutenant. Any knowledge or suspicion or information (including third party and anonymous kites, letters and reports) regarding incidents of sexual assault and rape, sexual abuse, sexual harassment and sexual misconduct in a correctional setting; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.

Department employees and service providers will report sexual abuse, misconduct or harassment by an employee or offender in accordance with *DOC Policy 1.1.6 Priority Incident Reporting and Acting Director System*. Incidents of sexual abuse and sexual harassment will be simultaneously reported to the LEAJ, where appropriate.

- B. Agency Policy 1.1.17, states that Apart from reporting to designated supervisors or officials, employees will not reveal any information related to a sexual abuse report to anyone other than to the extent necessary to make treatment, investigation, and other security and management decisions.

Unless otherwise precluded by law, medical and mental health practitioners will report sexual abuse and will inform offenders of their duty to report, and the limitations of confidentiality, at the initiation of services.

- C. Agency Policy 1.1.17, states that Apart from reporting to designated supervisors or officials, employees will not reveal any information related to a sexual abuse report to anyone other than to the extent necessary to make treatment, investigation, and other security and management decisions.

Unless otherwise precluded by law, medical and mental health practitioners will report sexual abuse and will inform offenders of their duty to report, and the limitations of confidentiality, at the initiation of services.

- D. According to MWP Procedure 1.1.17, *Prison Rape Elimination Act*, section E. 10 states that if the alleged victim is under the age of 18 the Warden or designee must report the allegation to the Department of Public Health and Human Services in accordance with 41-3-201, MCA.
- E. DOC Policy 1.1.17 states that Department employees and service providers will report sexual abuse, misconduct or harassment by an employee or offender in accordance with *DOC Policy 1.1.6 Priority Incident Reporting and Acting Director System*. Incidents of sexual abuse and sexual harassment will be simultaneously reported to the LEAJ, where appropriate.

Sample incident reports from inmate reporting methods were provided and reviewed. Each illustrated compliance.

While conducting interviews with staff, all were aware of the reporting requirements.

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? 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

MWP Procedure 1.1.17, states that any employee, contract worker or volunteer who learns that an offender is subject to a substantial risk of imminent sexual abuse or sexual assault/rape, that person shall take immediate action to protect the offender.

There were no instances in the past twelve months whereas the facility determined that an inmate was subject to a substantial risk of imminent sexual abuse.

Staff, volunteers and contractors are trained in this standard, as evidence by the training rosters and lesson plans. Likewise, staff who was interviewed at all levels knew of this requirement.

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

- A. MWP Procedure 1.1.17 states that all facilities will upon receipt of an allegation that an inmate was sexually abused while confined at another institution/facility, detention center, jail or juvenile detention facility, the Warden and the PREA Specialist will immediately initiate an incident report and notify the administrator of the other facility and the Office of Investigations.
- B. This will occur within seventy-two (72) hours of receipt of the information. The Auditor reminded the facility during the audit close out that they must ensure that the notification comes from the Warden, and not the PREA Compliance Manager/Specialist.
- C. There were no such incidents in the past twelve months.
- D. The facility has received two notifications from other facilities of incidents that were alleged to have happened at MWP. The samples were reviewed and illustrated compliance that MWP began an investigation.

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? 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: 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

- A. MWP Procedure 1.1.17, Prison Rape Elimination Act, provides staff with a plan and checklist to respond to PREA incident of sexual abuse or sexual harassment. The process includes, as required by the standard: Separation of the perpetrator and the victim and any witnesses; preserving and protecting the crime scene; forensic evidence preservation (when within time frames) for both the victim and the perpetrator; and other agency required reporting and documentation steps.

The facility provided several samples of PREA reports whereas the documentation illustrates that offenders and victims were separated and the first responder duties were adhered to. A memo from the PREA Facility Coordinator as well was reviewed which indicated that there were four instances at MWP where there was allegations that an inmate was sexually abused.

- B. Policy also states in section E.B. that 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.

DOC Policy 1.1.17 does, Staff who receives a report of sexual abuse or sexual harassment will:

- separate the victim from the alleged perpetrator to protect the victim and prevent violence;
- promptly intervene on the victim's behalf to ensure prompt medical and psychological assistance including an assessment for potential risk of suicide; and
- protect evidence in accordance with *DOC 3.1.28 Crime Scene and Physical Evidence Preservation*;
 - 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

- ii. 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.

MWP Procedure 1.1.17, however, does not differentiate between alleged perpetrator and victim and between security staff and non-security staff. This procedure states that:

1. When a staff member or service provider is informed of, or is a witness to sexual abuse or sexual harassment, they will treat it as a validated claim, and:
 - a. separate the victim, suspect and witnesses;
 - 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.
 - c. notify on-duty security Lieutenant immediately;
 - d. request the victim not perform any of the following functions that may damage evidence;
 - i. bathe or shower;
 - ii. use the restroom;
 - iii. change clothes;
 - iv. comb hair;
 - v. clean up the crime scene;
 - vi. move anything that may have been touched by the perpetrator; and
 - e. complete an incident report concerning observations and details provided by the victim, witness or perpetrator and submit it to the on-duty lieutenant.

CORRECTIVE ACTION AND FOLLOW UP: The facility updated its procedure to mirror both the requirements of this standard as well as the description in DOC policy. The changes were forwarded to the auditor for review. While on-site for the second visit in October, the Auditor interviewed six additional staff members who properly articulated the requirements of this standard and the changes.

Standard 115.65: Coordinated response

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

115.65 (a)

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

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- 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

MWP Sexual Assault/Abuse Response Team Protocol outlines the institutional plan to coordinate actions taken in response to an incident of sexual abuse among staff first responders, medical and mental health practitioners, investigators and facility leadership. In addition, the Prison Rape Elimination Act Sexual Abuse Incident Response and Containment Data Sheet is an additional document which is a checklist which details each responder’s role in the coordinated response.

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? **XXX 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

A and B. MWP has entered into a Collective Bargaining Agreement with the Montana Federation of Woman's Prison Employees, Local 4699. Under Article 5, Management Rights of said Agreement, it states "The Employer retains all rights to manage, direct, and control its business in all particulars except as such rights are modified or waived by the terms of this Agreement. The Federation and its members recognize the prerogatives of the employer to operate and manage its affairs in such areas but not limited to:

1. Direct employees
2. Hire, promote, transfer, assign, and retain employees,
3. Relive employees from duties because lack of work or funds or under conditions where continuum of such work be inefficient and nonproductive
4. Maintain the efficiency of government operations
5. Determine the methods, means, job classifications, and personnel by which government operations are to be conducted.
6. Take whatever actions may be necessary to carry out the missions of the agency in situations of emergency
7. Establish the methods and processes by which work is performed.

Discussion with Union Representatives and HR Staff revealed that they are aware of no contact orders during the pending of an investigation and that staff may be reassigned or placed on administrative leave.

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

A through D. MWP Procedure 1.1.17 details the zero tolerance policy they have for acts of retaliation or intimidation. Offenders, staff, volunteers or contract workers have the right to be free from retaliation for reporting sexual assault/rape, sexual misconduct, sexual abuse and sexual harassment and for cooperating with investigations. The Facility PREA Coordinator should maintain a log of all those who report and tracks each on scheduled basis to ensure that the offender victims are not retaliated against. The required form allows for her to monitor their work, education and housing assignments as well as their disciplinary history to ensure that they are not being sanctioned or reassigned as retaliatory practices. If retaliation has occurred, she will report these suspicions and/or observations to the Warden. This monitoring is completed for at least 90 days following a report of sexual abuse or sexual assault.

An inmate who wrote to the Auditor prior to the audit and then interviewed onsite and revealed that she was housed in segregation for an extended period of time after reporting

A second inmate who asked to be interviewed stated was removed from her job, after she was an alleged victim, of a staff and inmate related case.

These two allegations/investigations were reviewed by the Auditor and retaliation and a lack of monitoring was observed. As part of the corrective action for this standard after the first visit, the facility:

- Offered the second inmate her old position back (as the staff member should have been moved, not the victim).
- Established a procedure to watch for retaliation and ensure it is completed timely for each inmate involved in a case for at least 90 days.
- Developed policy and monitoring needs to also include periodic status checks.
- Train the PREA staff on these requirements and send training documentation to the auditor.

- Forwarded to the Auditor samples of this being completed on all new cases during the corrective action period.
- E. DOC Policy 1.1.17 states 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.

CORRECTIVE ACTION AND FOLLOW UP: The facility or program will monitor, for at least 90 days, the conduct and treatment of offenders and staff who reported sexual abuse or sexual harassment and offenders who have reported abuse or who were reported to have suffered sexual abuse or sexual harassment to prevent retaliation. Monitoring will continue beyond 90 days if there is a continuing need. Each facility will designate a staff member responsible for retaliation monitoring. The facility or program’s obligation to monitor retaliation may be terminated if the allegation is determined to be unfounded.

Every two weeks since the Auditor was on-site in October, the facility forwarded all retaliation monitoring conducted in that period. The forms that were forwarded illustrated compliance with the standard.

In addition, the Department will review and compare their local segregation review policy and ensure that it is in compliance with the Agency policy. All segregation review documents and review will include PREA staff for PREA related matters to ensure that those inmates’ victims are not housed in segregation for longer than necessary even if it is at the inmate’s request.

All retaliation monitoring documentation will be sent to the PREA Compliance Manager and Warden on a bi weekly basis beginning November 10, to ensure that all items are followed up on. Concerns that appear to be retaliatory or require follow up should be thoroughly documented or sent up for referral for a subsequent investigation.

- At the end of each month during the corrective action period (due on Oct. 31, Nov. 30, and Dec. 29), the PCM sent documentation of retaliation monitoring and follow-up documentation on any concerns to the PREA Coordinator and the Auditor.

Standard 115.68: Post-allegation protective custody

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

115.68 (a)

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

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- 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

MWP Procedure 1.1.17 states that any employee, contract worker or volunteer who learns that an offender is subject to a substantial risk of imminent sexual abuse or sexual assault/rape, that person shall take immediate action to protect the offender.

The facility may move such offenders with involuntary removal from population housing until an alternative means of separation from likely abuses can be arranged, and such assignment shall not ordinarily exceed a period of thirty (30) days.

Staff that was interviewed was well aware of the requirements surrounding this standard and policy. There were no instances with which this was required during the review period.

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

- A. The PREA standard states that when the agency conducts its own investigations into allegations of sexual abuse and sexual harassment, it shall do so promptly, thoroughly, and objectively for all allegations, including third-party and anonymous reports. Based on the interviews with staff and the review of the investigations completed, this subsection is not being met. It appears that the investigations are neither thorough nor objective.

MWP and the Montana Department of Corrections do not conduct criminal investigations. Criminal Investigations are referred to the Billings Police Department. MWP and the MDOC will conduct Administrative investigations into all PREA Related cases. Administrative Investigations will include items such as inmate on inmate sexual activity, staff or inmate on inmate sexual harassment, or any other matter that may not be criminal in nature.

- B. The facility Investigator interviewed stated she did not take training. While the facility was able to locate her certificate, based on the answers provided, she did not retain the knowledge if she did take.

Facility Investigator was unaware of the evidentiary standard, its definitions and the possible types of outcome in investigations. She stated that these were the outcomes:

Substantiated: It occurred

Unfounded: We think it happened but cannot prove it did.

Unsubstantiated: It did not occur.

These definitions are not correct, as per the standards and in addition, after a review of three cases (5232017-1 and two others without case numbers).

- C. Policies MWP Procedure 1.1.17, Prison Rape Elimination Act and DOC 3.1.18, Investigations, states that Investigators shall gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any electronic monitoring data; shall interview alleged victims, suspected perpetrators, and witnesses; and shall review prior complaints and reports of sexual abuse involving the suspected perpetrator.
- D. The facility was unable to demonstrate to the auditor that any cases during the review period were sent to law enforcement and therefore were unable to support criminal prosecution. For this reason, the auditor could not review any consultations with prosecutors.
- E. Policies MWP Procedure 1.1.17, Prison Rape Elimination Act and DOC 3.1.18, Investigations, state that the credibility of an alleged victim, suspect or witness shall be assessed on an individual basis and shall not be determined by the person's status as an inmate or staff. This was clearly discussed and understood with the Agency's Investigations Manager. While the Agency Investigation Manager was well versed, it was evident during an interview with the facility level investigator that this information is no know by those who need to at the facility level.
- F. Policy 1.1.17, as well as the standards are clear in this section and state that administrative investigations:
 - (1) Shall include an effort to determine whether staff actions or failures to act contributed to the abuse; and
 - (2) Shall be documented in written reports that include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings.
- G. Criminal investigations shall be documented in a written report that contains a thorough description of physical, testimonial, and documentary evidence and attaches copies of all documentary evidence where feasible. After review of four cases, and the confusion on the possible outcome, it was evident that these descriptions did not meet the conclusion on the investigations. It should be noted, that these four cases were specifically selected by the auditor, since multiple inmates and staff during the random interviews, brought up these specific cases and staff.
- H. Substantiated allegations of conduct that appears to be criminal shall be referred for prosecution. The facility was unable to provide any documentation illustrating that they referred any cases during the review

period for criminal prosecution (or to law enforcement that would complete this step). Two of the cases reviewed by the audit team appeared to have criminal conduct and should have been referred.

- I. MDOC policy 1.1.17, Prison Rape Elimination Act states that the agency shall retain all written reports referenced in paragraphs (f) and (g) of this section for as long as the alleged abuser is incarcerated or employed by the agency, plus five years.
- J. MDOC policy 1.1.17, Prison Rape Elimination Act the departure of the alleged abuser or victim from the employment or control of the facility or agency shall not provide a basis for terminating an investigation.
- K. Any State entity or Department of Justice component that conducts such investigations shall do so pursuant to the above requirements.
- L. When outside agencies investigate sexual abuse, the facility shall cooperate with outside investigators and shall endeavor to remain informed about the progress of the investigation yet this could not be verified due to the fact that the cases appear to not being referred.

CORRECTIVE ACTION AND FOLLOW UP:

The PREA Coordinator reviewed all PREA cases at MWP and saw that based on this standard and the other standards that relate to investigations (115.22, 115.34, 115.71, and 115.72) needed corrective action. For that reason, the corrective actions detailed here are applicable to all four of these standards.

The Agency Level Chief Investigator developed and delivered a state specific investigation protocol and training. This included the process for investigation referral, case assignment, investigation process, report writing, review by Agency oversight staff, and final case outcome determination by Central Office. This training was delivered to all facility level investigators at MWP in a classroom setting. Documentation to include PowerPoint, case samples, report template, policy revision request, sign in sheet and certificates was forwarded to the Auditor for review. Verification of classroom training was followed-up with a written exam and a report writing sample from all participations for successful completion. This was completed by December 8th, 2017 and forwarded to the auditor for review. Five MWP staff was present as well as staff from other facilities. The training roster was forwarded as well.

Central Office assigned a Department Investigator as the oversight for MWP investigative matters. This individual will make and notify the facility of monthly visits (at a minimum). During these visits, the Department Investigator will review open cases, conduct training or mentoring as necessary, complete cases, meet with law enforcement, and verify any documentation or interviews as necessary. Rich Collins is the assigned investigator. He emailed the PREA Coordinator a summary report of any PREA related work completed at the facility during his monthly visits. The first visit was November 27-29, 2017 and documentation of the visit was sent to the auditor to review.

The Agency created a flow chart/process indicator map of the investigation process from referral from the facility, assignment by the agency, investigation paperwork and process, completion of the case, review of final report and supporting documentation and Agency follow up. This was educated to the staff to ensure

they understand the process at the facility. These were provided to all PCMs and will be included in all future investigations training. They were sent to the auditor to review on December 6, 2017.

The Department Investigator and PREA Coordinator will continue to review all cases (facility level and Agency level) that are completed at MWP as final approving authority. These changes/updates were added to Department Policy and were forwarded to the auditor in draft form. The Auditor acknowledges that policy review and approval takes significant time. The changes in draft form with the routing documentation will suffice once staff is educated.

The PREA Coordinator reviewed all cases that were investigated in the twelve months preceding the first onsite portion of the audit to present. During the review, she consulted with the Department Investigators, HR Specialists, and facility staff for any follow up or concerns that is identified. She also ensured any necessary referrals to outside law enforcement should any criminal components be identified. These reviews were documented and forwarded to the Auditor on December 22, 2017.

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

The MDOC Policy 1.1.17, Prison Rape Elimination Act states that the agency shall impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual assault, sexual abuse or sexual harassment are substantiated.-

Policy was reviewed which provides a thorough definition of the preponderance of evidence which is utilized.

The Investigator stated she did not take investigator training and did not know this definition and requirement. While the facility was able to locate her certificate, based on the answers provided, she did not retain the knowledge if she did take.

Facility Investigator was unaware of the evidentiary standard, its definitions and the possible types of outcome in investigations. She stated that these were the outcomes:

Substantiated: It occurred

Unfounded: We think it happened but cannot prove it did.

Unsubstantiated: It did not occur.

These definitions are not correct, as per the standards and in addition, after a review of three cases (5232017-1) and two others without case numbers).

Corrective ACTION AND FOLLOW UP:

The PREA Coordinator reviewed all PREA cases at MWP and saw that based on this standard and the other standards that relate to investigations (115.22, 115.34, 115.71, and 115.72) needed corrective action. For that reason, the corrective actions detailed here are applicable to all four of these standards.

The Agency Level Chief Investigator developed and delivered a state specific investigation protocol and training. This included the process for investigation referral, case assignment, investigation process, report writing, review by Agency oversight staff, and final case outcome determination by Central Office. This training was delivered to all facility level investigators at MWP in a classroom setting. Documentation to include PowerPoint, case samples, report template, policy revision request, sign in sheet and certificates was forwarded to the Auditor for review. Verification of classroom training was followed-up with a written exam and a report writing sample from all participations for successful completion. This was completed by December 8th, 2017 and forwarded to the auditor for review. Five MWP staff were present as well as staff from other facilities. The training roster was forwarded as well.

Central Office assigned a Department Investigator as the oversight for MWP investigative matters. This individual will make and notify the facility of monthly visits (at a minimum). During these visits, the Department Investigator will review open cases, conduct training or mentoring as necessary, complete cases, meet with law enforcement, and verify any documentation or interviews as necessary. Rich Collins is the assigned investigator. He will email the PREA Coordinator a summary report of any PREA related work completed at the facility during his monthly visits. These will be forwarded to the auditor. The first visit was November 27-29, 2017 and documentation of the visit was sent to the auditor to review.

The Agency created a flow chart/process indicator map of the investigation process from referral from the facility, assignment by the agency, investigation paperwork and process, completion of the case, review of final report and supporting documentation and Agency follow up. This was educated to the staff to ensure they understand the process at the facility. These will be provided to all PCMs and will be included in all future investigations training. They were sent to the auditor to review on December 6, 2017.

The Department Investigator and PREA Coordinator will continue to review all cases (facility level and Agency level) that are completed at MWP as final approving authority. These changes/updates were added to Department Policy and were forwarded to the auditor in draft form. The Auditor acknowledges that policy review and approval takes significant time. The changes in Draft form with the routing will suffice once staff is educated.

The PREA Coordinator reviewed all cases that were investigated in the twelve months preceding the first onsite portion of the audit to present. During the review, she consulted with the Department Investigators, HR Specialists, and facility staff for any follow up or concerns that is identified. She also ensured any necessary referrals to outside law enforcement should any criminal components be identified. These reviews were documented and forwarded to on December 22, 2017.

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

The PREA Standard states:

- 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:
 - a. The staff member is no longer posted within the inmate's unit;
 - b. The staff member is no longer employed at the facility;

- c. The agency learns that the staff member has been indicted on a charge related to sexual abuse within the facility; or
 - d. 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:
- a. The agency learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility; or
 - b. 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.

This is not being completed, and the facility provided no documents to show compliance

CORRECTIVE ACTION AND FOLLOW UP:

The facility went back for a period of one year (from June 2016 to June 2017) and moving forward with new cases, to write letters to the inmate population that was involved in cases. The auditor was provided letters for all substantiated and unsubstantiated cases. The letters require that a staff member meets with the inmate and the inmate signs a receipt for all of these cases.

The PCM also, every two weeks, sent to the auditor any new notifications that were provided to and signed for by inmates regarding their cases, as necessary. All that were forwarded illustrated compliance and were compared to the open case log.

DISCIPLINE

Standard 115.76: Disciplinary sanctions for staff

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

115.76 (a)

- Are staff subject to disciplinary sanctions up to and including termination for violating agency sexual abuse or sexual harassment policies? Yes No

115.76 (b)

- Is termination the presumptive disciplinary sanction for staff who have engaged in sexual abuse? Yes No

115.76 (c)

- Are disciplinary sanctions for violations of agency policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories? 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

- A. B. and C. DOC Policy 1.1.17, Prison Rape Elimination Act states that the presumptive discipline for employees who have engaged in sexual abuse will be termination. Disciplinary sanctions for violations of Department policies relating to sexual abuse or sexual harassment, other than actually engaging in sexual abuse will be proportionate to the nature and circumstances of the acts committed, disciplinary history and sanctions imposed for comparable offenses by other employees.
- D. DOC Policy 1.1.17, Prison Rape Elimination Act states 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.

CORRECTIVE ACTION AND FOLLOW UP: Sample cases showed staff that resigned but no evidence that this criminal act was forwarded to outside law enforcement. For corrective action on this standard, the facility will educate staff on these requirements and document said education. The facility will also notify law enforcement of all cases in past year whereas there was a criminal component

The Agency PREA Coordinator and the Investigator assigned to MWP reviewed ALL cases of alleged abuse and determined that that one case would be briefed with local law enforcement for possible

criminal wrongdoing. The Investigator spoke with the Yellowstone County Attorney regarding the case. This case was detailed in a memo to the Auditor, as it was briefed to the County Attorney. The matters in the case will not be detailed here, as to protect the victim, but present various difficulties in the likelihood of prosecution as it relates to the definition of the law involving 'sexual contact'. This particular case was the matter that the Auditor was initially concerned with. In addition, three additional case were briefed with the County Attorney. After a thorough review, it was decided that none of these case would be re-opened for investigation nor referred for prosecution.

Standard 115.77: Corrective action for contractors and volunteers

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

115.77 (a)

- Is any contractor or volunteer who engages in sexual abuse prohibited from contact with inmates? Yes No
- Is any contractor or volunteer who engages in sexual abuse reported to: Law enforcement agencies (unless the activity was clearly not criminal)? Yes No
- Is any contractor or volunteer who engages in sexual abuse reported to: Relevant licensing bodies? Yes No

115.77 (b)

- In the case of any other violation of agency sexual abuse or sexual harassment policies by a contractor or volunteer, does the facility take appropriate remedial measures, and consider whether to prohibit further contact with inmates? Yes No

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

- A. and B. DOC Policy 1.1.17, Prison Rape Elimination Act states indicate that all cases will be referred to the investigative unit and if appropriate will be referred to the District Attorney for prosecution. In addition, they also state that any contract worker or volunteer who engages in sexual assault/rape, sexual abuse or sexual harassment or retaliates against an offender who reports sexual assault/rape, sexual misconduct and sexual harassment or cooperates with the

investigation where such behavior rises to the level of criminal behavior, shall be prohibited from contact with offenders and reported to the investigative unit or local law enforcement and to relevant licensing bodies. Service providers who engage in sexual abuse will be prohibited from contact with offenders.

The PAQ and interviews with staff indicating that in the twelve months prior to this audit, there was no contractor or volunteer acts of sexual abuse or sexual harassment at the facility.

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

DOC Policy 1.1.17, Prison Rape Elimination Act states indicates that sexual activity between offenders is prohibited and will be disciplined. The definition of sexual assault is that an offender commits this offense when he/she has active or passive contact or fondling which is coerced or forced between his genitals, hands, out, buttocks, or breast or with the use of animate or inanimate objects and the genitals, hands mouth, buttocks, anus or breast of another person. Contact can be with or without clothing being worn by one or both parties.

DOC Policy 1.1.17 states that Reports made in bad faith, which includes deliberately malicious reports by offenders or other parties, will result in disciplinary action and/or criminal charges. Further, DOC Policy 3.4.2, Prohibited Acts states that Although it is impossible to define every possible prohibited act or rule violation, the following acts are prohibited in all Department facilities...assaulting any person and engaging in sexual acts, making sexual proposals or threats; indecent exposure

During the prior twelve months, no incidents occurred whereas there was a criminal finding of guilty and the offender has not been through the Discipline Process.

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

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. MWP 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 AND FOLLOW UP: On November 7, 2017, the PREA Coordinator conducted training with all staff that may complete inmate screenings. This included medical and mental health staff, case managers, PREA staff and housing Lieutenants. This was completed by video conference and signed for by all staff present.

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 were and 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. 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.

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

- 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. MWP 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, MWP 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.

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.) 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

- A. DOC Policy 1.1.17, Prison Rape Elimination Act 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 referrals for continued care following their transfer to other facilities or release from custody.
- C. Interviews with medical and mental health staff indicated that the services provided by their departments are consistent with the community level of care.
- D and E. Interviews with medical staff indicated that victims of abusive penetration while incarcerated would be offered pregnancy tests and comprehensive educations about the timely access to all lawful pregnancy related medical services.
- F. DOC Policy 1.1.17, Prison Rape Elimination Act 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 staff also indicated that this would occur.
- G. DOC Policy 1.1.17, Prison Rape Elimination Act states that treatment will be made available without financial cost to the victim.
- H. Interviews with mental health staff revealed that a mental health evaluation on all known inmate on inmate abusers would be completed upon learning of such behavior, within 60 days. Treatment would be offered when deemed appropriate.

DATA COLLECTION AND REVIEW

Standard 115.86: Sexual abuse incident reviews

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

115.86 (a)

- Does the facility conduct a sexual abuse incident review at the conclusion of every sexual abuse investigation, including where the allegation has not been substantiated, unless the allegation has been determined to be unfounded? Yes No

115.86 (b)

- Does such review ordinarily occur within 30 days of the conclusion of the investigation? Yes No

115.86 (c)

- Does the review team include upper-level management officials, with input from line supervisors, investigators, and medical or mental health practitioners? 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

- 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.

Based on previous findings and the facility's inability to provide samples, it was determined by the Auditor that SART reviews cannot be completed if PCM does not have information to follow up. For corrective action, the facility will develop a process to ensure these are completed thirty days at the conclusion of the investigation. This will be will be lead by PREA staff and will be forwarded to the auditor for review period.

CORRECTIVE ACTION AND FOLLOW UP: All cases are now routed through the SharePointe systems and shared with the PCM. The process was reviewed with the PCM for educational purposes and all samples during the review period were sent to the Auditor to review and illustrated compliance.

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

- 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 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.

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

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 and 2015 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.

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

- 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 and 2015 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.

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*)

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*)

AUDITOR CERTIFICATION

I certify that:

- XXX The contents of this report are accurate to the best of my knowledge.
- XXX No conflict of interest exists with respect to my ability to conduct an audit of the agency under review, and
- XXX 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.

Jillian Shane

February 3, 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.