

**PREA AUDIT REPORT**     Interim     Final

**ADULT PRISONS & JAILS**

**Date of report:** October 18, 2016

<b>Auditor Information</b>			
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<b>Date of facility visit:</b> May 26, 2016			
<b>Facility Information</b>			
<b>Facility name:</b> Treasure State Correctional Training Center			
<b>Facility physical address:</b> 1100 Conley Lake Road, Deer Lodge, MT 59722			
<b>Facility mailing address:</b> <i>(if different from above)</i> <a href="#">Click here to enter text.</a>			
<b>Facility telephone number:</b> 406-846-1320 x2100			
<b>The facility is:</b>	<input type="checkbox"/> Federal	<input checked="" type="checkbox"/> State	<input type="checkbox"/> County
	<input type="checkbox"/> Military	<input type="checkbox"/> Municipal	<input type="checkbox"/> Private for profit
	<input type="checkbox"/> Private not for profit		
<b>Facility type:</b>	<input checked="" type="checkbox"/> Prison	<input type="checkbox"/> Jail	
<b>Name of facility's Chief Executive Officer:</b> Michael Buckley			
<b>Number of staff assigned to the facility in the last 12 months:</b> 22			
<b>Designed facility capacity:</b> 40			
<b>Current population of facility:</b> 40			
<b>Facility security levels/inmate custody levels:</b> Minimum Restricted			
<b>Age range of the population:</b> 18-45			
<b>Name of PREA Compliance Manager:</b> Joseph Fink		<b>Title:</b> Correctional Manager/PREA Compliance Manager	
<b>Email address:</b> jfink2@mt.gov		<b>Telephone number:</b> 406-846-1320 x 2110	
<b>Agency Information</b>			
<b>Name of agency:</b> Montana Department of Corrections			
<b>Governing authority or parent agency:</b> <i>(if applicable)</i> State of Montana			
<b>Physical address:</b> 5 South Last Chance Gulch, Helena, Montana 59620-1301			
<b>Mailing address:</b> <i>(if different from above)</i> P.O. Box 201301 Helena, Montana 59620-1301			
<b>Telephone number:</b> 406-444-3930			
<b>Agency Chief Executive Officer</b>			
<b>Name:</b> Mike Batista		<b>Title:</b> Director	
<b>Email address:</b> MBatista@mt.gov		<b>Telephone number:</b> 406-444-4913	
<b>Agency-Wide PREA Coordinator</b>			
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## AUDIT FINDINGS

### NARRATIVE

The Prison Rape Elimination Act (PREA) on-site audit of the Treasure State Correctional Center (TSCTC) in Deer Lodge, Montana was conducted on May 26, 2016. Originally the audit was scheduled to be completed by Robert Real, however due to extenuating circumstances one week prior to the audit it was changed to be audited by Ericka Sage, from Salem, Oregon, a U.S. Department of Justice Certified PREA Auditor for adult prisons and jails. Assisting the auditor in a support role was Amanda Rasmussen, who conducted several random and specialized interviews and reported the findings to the auditor. Ms. Rasmussen has attended U.S. Department of Justice Auditor Training in September 2015, and was recently certified in June 2016. Also, as part of the Oregon audit team, Robert Real, another U.S. Department of Justice Certified PREA Auditor conducted interviews with agency level staff including the Director or designee, the Contracts Manager, Human Resources Director and the Agency PREA Coordinator.

Pre-Audit preparation included a limited review of all documentation and materials submitted by the Facility's PREA Compliance Manager, via flash drive, to include data from the Pre-Audit Questionnaire one week prior to the audit. A more thorough review was completed after the onsite visit. A review of the agency's website was also conducted to evaluate compliance with the federal PREA standards.

Six weeks prior to the on-site audit, notification was posted throughout the facility with the auditor's contact information for confidential communications with staff and inmates. Documentation was forwarded to the auditor via email demonstrating the notice was posted within the prescribed timeline required by the Department of Justice. There were no letters written to the auditor. However, interviews with inmates indicated they were properly posted.

The auditor conducted a tour of all areas of the facility which included but was not limited to: intake, housing areas, medical, food services, and programming and education areas. PREA signs and informational posters for services related to PREA were posted throughout the facility. There was good staff visibility as this is a very small facility, with a very structured supervision protocol.

There were a total of 11 random offender interviews conducted as part of the on-site tour which included a sampling from every living unit. Additionally, specialized interviews were conducted for offenders who disclosed sexual victimization during risk screening and one gay inmate. The institution stated there were no inmates to interview that were disabled and limited English proficient, reported sexual abuse or have been placed in segregated housing for risk of sexual victimization. There were 14 total in-person interviews conducted in a private office.

Staff interviews were conducted, which included 12 random staff from a sampling of security and non-security, as well as staff from all three shifts (day, swing and graveyard). Specialized staff interviews conducted included the Superintendent, PREA Compliance Manager, first responders, intermediate or higher level facility staff, staff assigned to supervise offenders in segregated housing, staff that performs screening for risk of victimization and abusiveness, intake staff, staff assigned to the incident review team, designated staff member charged with monitoring for retaliation. The facility reported there were no non-medical staff involved in cross-gender strip or visual searches and no staff who supervise youthful offenders and no volunteers or contractors, or SAFE/SANE staff available to interview. The facility utilizes human resources, investigative, and medical and mental health staff from the Montana State Prison. Interviews with those staff were conducted during an onsite audit at Montana State Prison directly before the audit of TSCTC. A total of 20 staff interviews were conducted either in-person or over the telephone in a private office and several additional informal interviews conducted while on the facility tour and while on-site for the duration of the audit.

In addition to the interviews conducted, the auditor reviewed investigative files, training records, training course materials, and other related materials that demonstrated TSCTC's efforts to comply with the Prison Rape Elimination Act.

## DESCRIPTION OF FACILITY CHARACTERISTICS

Treasure State Correctional Training Center (TSCTC) is a holistic environment geared toward positive change, self-respect, discipline, accountability and responsibility. It is a correctional re-entry program that emphasizes restorative justice and cognitive programming through a structured and disciplinary environment that emphasizes responsibility and accountability.

TSCTC's goal is to change the criminal thinking patterns of men and women in order for them to become safe, contributing members of society. During their participation in this program, trainees are confronted when their behavior and attitudes are not in line with the program's overall goals. Staff members who guide the trainees are expected to be demanding, not demeaning. Trainees are expected to perform duties and physical exercise they never thought possible. They can build self-respect and integrity. A trainee who pays attention, internalizes the program, and makes a commitment to change can graduate and become a solid and productive citizen.

"I will take the credit or blame for my actions." This statement of accountability is one of the foundations of the program. Holding offenders accountable for the harm they have done to others is a fundamental goal of the program.

The professional staff at the Treasure State Correctional Training Center promotes the mission of the Probation and Parole Division and uses effective evidence-based programming, including victim impact and restorative justice principles, to inspire offenders to have the courage to change, successfully reintegrate into society and earn the trust of the citizens of Montana.

There is one building for the program that contains all aspects of TSCTC. The facility has one open dormitory that houses male trainees and another smaller room that houses female trainees. Male and females are integrated except to sleep, or use the restroom and shower facilities.



## **SUMMARY OF AUDIT FINDINGS**

Overall it was evident that TSCTC had done a great deal of work preparing for their national PREA audit. During the course of the onsite visit staff were professional and inmates and staff were both willing to speak with the audit team.

On June 24, 2016 TSCTC was issued an interim audit report, which outlined 10 standards (115.12, 115.15, 115.17, 115.21, 115.32, 115.35, 115.41, 115.42, 115.53, 115.67) the facility was not compliant with at that time. Over the course of the following four months, the facility satisfactorily met the auditor's requirements in each of the standards to gain compliance. In some cases rules, policies, operational procedures and architectural changes were completed as well as the requirements to demonstrate proof of practice.

An explanation of the findings related to each standard is provided in this report. It is important to note the intention of this report is to provide the reader with a summary of audit findings and highlight some examples of evidence supporting these findings. The narrative in the report is not an "all inclusive" list of the supportive evidence needed to meet each PREA standard as there are a number of items considered when determining compliance. However, for each standard that was successfully met, interviews, observations, and review of additional documents during the on-site visit verified that practices employed at TSCTC are consistent with agency policies and facility protocols.

Number of standards exceeded: 0

Number of standards met: 42

Number of standards not met: 0

Number of standards not applicable: 1

## Standard 115.11 Zero tolerance of sexual abuse and sexual harassment; PREA Coordinator

- Exceeds Standard (substantially exceeds requirement of standard)
- 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 discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor’s analysis and reasoning, and the auditor’s conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

- (a) The Treasure State Correctional Training (TSCTC) and the Montana Department of Corrections (MDOC) has demonstrated compliance with all elements of this standard. The TSCTC and the Montana Department of Corrections adheres to *DOC Policy 1.1.17, Prison Rape Elimination Act of 2003 (PREA)*, which stated the Department of Corrections has a zero tolerance relating to all forms of sexual abuse and sexual harassment. The PREA policy further outlines the agency’s approach to preventing, detecting and responding to such conduct.

In addition to the agency policy, TSCTC has an Operational Procedure *TSCTC 1.1.17 – Prison Rape Elimination Act of 2003 (PREA)* that further supports its zero tolerance policy.

During a tour of the facility, the auditor observed signs clearly posted throughout the facility acknowledging the agencies zero tolerance policy towards sexual abuse and sexual harassment. Interviews with staff and inmates supports that they clearly understand the zero tolerance policy.

- (b) The department has designated Mr. Andy Jess as the Agency PREA Coordinator who reports directly to the Quality Assurance Director located out of the Agency Director’s Office. During an interview with Mr. Jess, he stated that his sole duties are related to ensuring the department is compliant with PREA standards and that he has sufficient time and authority to develop, implement and oversee agency efforts to comply with the PREA standards in all of the agency facilities.

During the onsite audit it was apparent that Mr. Jess had the authority to develop, implement and oversee the agency’s efforts to comply with the PREA standards. He was able to put out direction to staff at the facility so several compliance issues were able to be addressed immediately during the audit.

- (c) The TSCTC has designated Joseph Fink, Correctional Manager, as the Facility PREA Compliance Manager. During an interview with Mr. Fink, he stated that he has sufficient time and the authority to coordinate the facility’s efforts to comply with PREA standards.

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

- Exceeds Standard (substantially exceeds requirement of standard)
- 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 discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor’s analysis and reasoning, and the auditor’s**

**conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

- (a) The MDOC reported it utilizes three contracts for confinement of offenders including two county jails and one private prison. The auditor reviewed the contracts and determined two contracts met the requirements of the standard including PREA language to ensure the entity's obligation to adopt and comply with the PREA standards. One contract did not have PREA language included, yet is had been amended in September 2014.
- (b) MDOC employs contract monitors, whose sole duty is to monitor confinement contracts. Interview with the contract monitor indicated this was occurring.

The facility entered into a corrective action period to update the contract to include PREA language. On October 18, 2016 an updated contract that included PREA requirement was submitted to the auditor as supporting documentation. The contract had been signed by the MDOC Director and the Governor pending signatures by the county. The contract submitted satisfied the corrective action requirements, and the facility understands that if the county does not sign the contract, they can no longer contract for bed space with the facility.

### **Standard 115.13 Supervision and monitoring**

- Exceeds Standard (substantially exceeds requirement of standard)
- 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 discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

- (a) TSCTC has a staffing plan that takes into consideration the following: Generally accepted detention and correctional practices; the facility's architecture to include blind spots and areas where staff or inmates may be in isolated areas; the composition of the inmate population; number and placement of supervisory staff; occurrence of programs on specific shifts; applicable State and local laws, regulations and standards; and the prevalence of substantiated and unsubstantiated incidents of sexual abuse. There were no incidents of judicial findings of inadequacy or any finding of inadequacy from internal or external oversight bodies.

The staffing plan also identified strategies for adding additional video monitoring, including utilizing available grants as part of that process. The auditor was available to review camera placements provided during the onsite visit. Due to the small physical size of the facility, the architectural layout and the high ratio of staff supervision, the auditor was very impressed with the limited amount of blind spots throughout the facility. The number of cameras and locations were appropriate and the facility was able to describe plans for future camera placement strategies.

- (b) TSCTC stated in circumstances where the staffing plan is not complied with, the facility shall document and justify all deviations from the plan, however they listed that there have been no deviations from the staffing plan. The Superintendent stated he had even utilized staff that work at Montana State Prison when necessary to comply.

Interviews with the Superintendent and PREA Compliance Manager indicated a good understanding of the requirements in this standard.

- (c) The Superintendent of the facility explained that no less frequently than once a year, in consultation with the PREA
- PREA Audit Report

Coordinator, the facility assesses and documents whether adjustments are needed to the staffing plan, the facility's deployment of video monitoring systems and other monitoring technologies and the resources the facility has available to commit to ensure adherence to the staffing plan. This was documented in a report format and was available to the auditor to review during the Superintendent interview.

- (d) *DOC Policy 1.1.17, Prison Rape Elimination Act of 2003 (PREA)*, stated that administrators are required have intermediate level and higher level staff conduct unannounced rounds to identify and deter staff sexual abuse and sexual harassment. These rounds must be documented to cover all shifts and all areas of the facility. The facility must prohibit staff from alerting other staff of the conduct of such rounds.

The Superintendent sent a directive to all Correctional Manager, Facility Manager and Senior Drill Instructors dated April 13, 2016 stating that all intermediate level supervisors and above are to log the date/time of the tours in the appropriate log provided for record keeping that reflect the frequency of these tours on all shifts at TSCTC.

While touring the facility, the auditor observed unannounced rounds being conducted throughout the facility. During interviews of staff, they acknowledged that supervisory staff conducts unannounced rounds on a regular basis.

During interviews with staff, it was explained that supervisory rounds take place on all shifts, at random times. There was no indication that staff was alerting other staff members that these supervisory rounds are occurring.

#### **Standard 115.14 Youthful inmates**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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*MDOC Policy DOC 4.6.9 – Placement & Reporting of Youth with Adult Sentences* stated that youthful inmates under the age of 16 will be placed in a youthful facility. The policy does allow for inmates with adult sentences over the age of 16 to be placed in an adult prison; however the facility states that no youthful inmates would be housed there.

During reviews of population reports and through staff and inmate interviews there was no indication that youthful inmates had been housed there in the past and there were no youthful inmates housed there during the audit.

#### **Standard 115.15 Limits to cross-gender viewing and searches**

- Exceeds Standard (substantially exceeds requirement of standard)
- 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 discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

- (a) *TSCTC Operation Procedure 3.1.17 – Searches and Contraband Control* stated staff members conducting pat searches will be of the same gender as the trainee. If a staff member of the same gender is not available and an emergency exists, two (2) staff members will conduct the search, one staff to search and one staff to witness. The search(es) and all results will be documented. The trainee should not be touched any more than is necessary to conduct a comprehensive search.

*TSCTC 1.1.17 – Prison Rape Elimination Act of 2003 (PREA)* further states that cross-gender searches will only be conducted under authorization of the Superintendent or designee when necessary. TSCTC will not conduct cross-gender strip searches or cross-gender visual body cavity searches except when performed by medical practitioners. If a strip search of a female is needed and a female TSCTC staff member is not available, a request will be placed with the Montana State Prison for assistance by a female officer for the strip search. Until the search can be conducted, the offender will remain under direct supervision away from the main housing area.

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

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

Interviews with staff indicated a good understanding of the requirement and there was no indication that this had occurred in the past.

- (b) Although the facility has a rated capacity of under 50 inmates, interviews with staff indicated that there have been no cross gender pat searches of female inmates, however, they were aware of the requirement to document it if it were to occur.

There was no indication through interviews with female inmates or staff that access to regularly available programming or other out-of-cell opportunities were restricted in an effort to comply with this standard.

- (c) Although it is also in policy, interviews with staff indicated they would document the cross-gender strip or visual body cavity searches.
- (d) *TSCTC Operational Procedure 1.1.17 Prison Rape Elimination Act of 2003 (PREA)* states that staff will not purposely view offenders when they are showering, performing bodily functions, and changing clothing except in exigent circumstances or when such viewing is incidental to routine cell checks. Staff will announce their presence at the beginning of each shift change, thus allowing offenders to be alert that male and female staff are on the floor.

There is one male housing unit and one female housing unit, which are in close proximity to each other. During the day hours, both genders of inmates are located in the male housing unit, which is one open unit that has direct staff supervision.

During the audit the audit team was able to observe opposite gender staff making the announcement when entering a housing unit. Interviews with staff and inmates also indicated this was routinely occurring. Even though the policy states that it will be at the beginning of every shift, they were aware this should be done any time the status of the gender of supervision changes. It is however, recommended that the language be changed in the operating procedure to specify the announcements be conducted when the status of the gender of supervision actually changes.



Shower and bathroom areas were observed. Both male and female inmates use the same shower and bathroom areas at different times. Due to the close supervision and the strict structure of the program, every inmate must ask permission prior to entering the shower or bathroom area. The shower and bathroom areas have same gender supervision.

Interviews with staff and inmates indicated same gender supervision was occurring, however there was a concern that sometimes the shower curtains dividing bathroom from opposite gender viewing sometimes was left open. The facility immediately made changes to the shower curtain to ensure this would not occur in the future.

- (e) *MDOC Policy 3.1.17 – Searches and Contraband Control and TSCTC Operational Procedure 1.1.17 Prison Rape Elimination Act of 2003 (PREA)* state that staff are prohibited from searching or physically examining a transgender or intersex offender for the sole purpose of determining the offender’s genital status.

Interviews with staff indicated a good understanding of the requirement of this provision of the standard.

- (f) TSCTC stated on the Pre-Audit Questionnaire that a 72 percent of security staff has been trained in how to conduct cross-gender pat-down searches, and searches of transgender and intersex inmates, in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.

The facility entered into a corrective action period. Training rosters were completed that indicated the remaining staff received the training on July 13, 2016.

The training curriculum was reviewed and met compliance with this standard by instructing staff to be professional, respectful and the requirements around searches.

Interviews with staff indicated most had a good understanding of the training that was provided to them. The practice at TSCTC is to ask a transgender inmate which gender they would prefer conduct the search.

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

- Exceeds Standard (substantially exceeds requirement of standard)
- 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 discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor’s analysis and reasoning, and the auditor’s conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

- (a-b) *MDOC Policy 1.1.17 – Prison Rape Elimination Act of 2003 and TSCTC Operational Procedure 1.1.17 Prison Rape Elimination Act of 2003 (PREA)* states that a program or facility will provide offender education in formats accessible to all offenders, including those who are limited English proficient, deaf, visually impaired, or otherwise disabled, as well as to offenders who have limited reading skills.

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

Inmate orientation was provided that stated an inmate could ask for a reasonable accommodation by asking their Unit

Counselor or other Department staff in person or in writing or by contacting the ADA Coordinator.

A contract was provided to the auditor that TSCTC can utilize for telephonic interpretation services (OPI) and braille transcription services. The contract stated languages will include, but not be limited to, Spanish, Russian, German, French, Montana Native American Tribes (based on availability), Mandarin, and Arabic.

The facility stated they did not currently have anyone at the facility that was limited English proficient or disabled.

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

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

### **Standard 115.17 Hiring and promotion decisions**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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- (a) The *MDOC Policy 1.3.2 Performance and Conduct* does not specifically prohibit the agency from hiring or promoting anyone who may have contact with inmates, and shall not enlist the services of any contractor who have been engaged, convicted of or civilly or administratively adjudicated in all activities described in 1-3 of the standard.

The facility stated that in the past 12 months, there were 2 persons hired who may have contact with inmates; however it indicated that none had had criminal background checks. As part of a correction action period, background checks were provided for review.

- (b) At the time of the audit, there was no documentation provided to the auditor to show that TSCTC considers incidents of sexual harassment in determining whether to hire or promote anyone, or to enlist the services of any contractor, who may have contact with inmates.

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

- (f) At the time of the audit, there was no documentation provided that indicated that the agency shall ask all applicants about previous misconduct described in (a). *MDOC policy 1.3.2 Performance and Conduct* outlines an affirmative duty to disclose criminal conduct. As part of a corrective action, the agency developed a questionnaire that all applicants will need to complete, which meets compliance with this provision.

- (g) At the time of the audit, no documentation was provided that stated material omissions regarding such misconduct or the provision of materially false information shall be grounds for termination. This language is not added into the

questionnaire that has been added in the corrective action period.

- (h) At the time of the audit, no documentation was provided that stated the agency shall provide information on substantiated allegations of sexual abuse or sexual harassment involving a former employee upon receiving a request from an institution employer for whom such employee has applied to work.

The facility entered into a corrective action period, in which it made significant changes to *MDOC policy 1.3.2 Performance and Conduct* to meet compliance. The new policy language reiterates all provisions of this standard. Furthermore, the agency has stated this is now in practice, satisfying the auditor's corrective action requirements.

### **Standard 115.18 Upgrades to facilities and technologies**

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
- Does Not Meet Standard (requires corrective action)

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- (a) TSCTC stated it has made any substantial expansion or modifications of existing facilities since August 20, 2012. The female housing unit was moved and interviews with the PREA Compliance Manager and Superintendent indicated the facility did consider its ability to protect inmates from sexual abuse.
- (b) TSCTC stated the facility it has installed or updated a video monitoring system, electronic surveillance system, or other monitoring technology since August 20, 2012 as a result of a review to ensure inmates are protected from sexual abuse.

The tour indicated good camera placement.

Interviews with the Superintendent, PREA Compliance Manager and the Director's designee (the Quality Assurance Director) indicated a good understanding of this requirement.

### **Standard 115.21 Evidence protocol and forensic medical examinations**

- Exceeds Standard (substantially exceeds requirement of standard)
- 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 discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

- (a) TSCTC has established uniform protocols for investigating allegations of sexual abuse that maximize the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions as outlined in *MDOC*

*Policy 3.1.28, Crime Scene and Physical Evidence Preservation.*

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

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

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

A review of the protocol was confirmed that it was appropriate.

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

TSCTC stated that there have been no forensic medical examinations that were conducted during the past 12 months; two performed by a SANE/SAFE and one performed by a qualified medical practitioner. Inmates are transported to Deer Lodge Medical Center or local area medical facilities for SANE/SAFE exams.

- (d) TSCTC has a Memorandum of Understanding with a local rape crisis center, Safe Space, to provide sexual abuse victim advocacy, which includes response to the hospital during a forensic medical exam.
- (e) *MDOC policy 1.1.17 – Prison Rape Elimination Act of 2003 (PREA)* states that offenders who allege to be victims of sexual abuse or sexual harassment must be provided access to a victim advocate or rape crisis center counselor who can offer emotional support services through the investigative process, or access to a qualified facility staff person.

The Memorandum of Understanding with Safe Space outlines that they will provide hospital response during the forensic medical examination and shall provide emotional support, crisis intervention, information and referrals.

During the tour the audit team noticed that the phone number and contact information for advocacy centers were not provided on posters or other areas. The auditors were concerned that inmates were not aware that the option to have a victim advocate was available to them. Additionally, as part of the program at TSCTC, inmates do not have routine access to phone calls.

The facility entered into a corrective action period and was required to provide inmates with information on victim advocacy. The facility created a pamphlet titled "End the Silence" that provided information on victim advocacy, and how to reach them. The facility will provide the pamphlet to all inmates during the orientation process, which includes reporting options instructions.

- (f-g) MDOC is responsible to investigate allegations of sexual abuse; therefore this provision of the standard is not applicable.
- (i) Safe Space staff have been screened for appropriateness to serve in this role and have received education concerning sexual assault and forensic examination issues in general.

## **Standard 115.22 Policies to ensure referrals of allegations for investigations**

- Exceeds Standard (substantially exceeds requirement of standard)
- 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 discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor’s analysis and reasoning, and the auditor’s conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

- (a) *MDOC Policy 3.1.19, Investigations* states that all reported incidents of sexual abuse and sexual harassment will be investigated either by local law enforcement or the Department’s Office of Investigations. *DOC Policy 1.1.17, Prison Rape Elimination Act of 2003 (PREA)*, states that allegations of sexual abuse and sexual harassment will be assessed by personnel designated by the administrator and investigative staff to ensure each report is forwarded to the appropriate investigative office.

MDOC Office of Investigations conducts all criminal investigations, and administrative investigations are investigated by select facility staff. Although there are no investigators located at TSCTC, interviews were conducted with investigators while at Montana State Prison, which indicated compliance with this standard.

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

MDOC Policy 3.1.19, Investigations stated that outlines the general requirements that all criminal investigations are to be referred for to an investigator with the legal authority to conduct the investigation. The policy is available on the MDOC website at: [https://cor.mt.gov/Portals/104/Resources/Policy/Chapter3/3-1-19%20Investigations%2003\\_11\\_15.pdf](https://cor.mt.gov/Portals/104/Resources/Policy/Chapter3/3-1-19%20Investigations%2003_11_15.pdf) .

TSCTC stated that during the past 12 months there have been 1 allegations of sexual harassment and no allegations of sexual abuse.

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

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

### **Standard 115.31 Employee training**

- Exceeds Standard (substantially exceeds requirement of standard)
- 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 discussion, including the evidence relied upon in making the compliance or non-**

**compliance determination, the auditor’s analysis and reasoning, and the auditor’s conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

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

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

Employees receive a two hour in person, classroom training titled “Prison Rape Elimination Act (PREA)”. The training included all topics required in 1-10 of this standard. Employees also receive boundaries training that include how to avoid inappropriate relationships with inmates.

The facility indicated all staff had received the training and staff interviews indicated they had been properly trained on all aspects as required under the standard.

(c) MDOC stated they provide refresher training every two years to ensure all employees know the agency’s current sexual abuse and sexual harassment policies and procedures and in years in which an employee does not receive refresher training, the agency shall provide refresher information on current sexual abuse and sexual harassment policies. Additionally, the facility states that information on PREA is provided to staff monthly during trainings.

Interviews with staff indicated they were routinely provided refresher information on PREA.

### **Standard 115.32 Volunteer and contractor training**

- Exceeds Standard (substantially exceeds requirement of standard)
- 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 discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor’s analysis and reasoning, and the auditor’s conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

- (a) TSCTC provides volunteers and contractors with PREA training titled “Treasure State Correctional Training Center Volunteer and Contractor Training – Federal Prison Rape Elimination Act (PREA)”, which incorporates the agencies sexual abuse and sexual harassment, prevention, detection, and response policies and procedures.

The facility did not have any volunteers or contractors available to be interviewed.

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

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

- (c) During the PREA audit, documentation of training was not provided. As part of corrective action the facility provided the auditor with signed PREA Acknowledgement statements for each volunteer and contractor, which confirms they understand the training they received.

### Standard 115.33 Inmate education

- Exceeds Standard (substantially exceeds requirement of standard)
- 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 discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor’s analysis and reasoning, and the auditor’s conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

- (a) *DOC Policy 1.1.17, Prison Rape Elimination Act of 2003 (PREA)*, stated that within 72 hours of facility or program intake, staff will communicate to offenders, verbally and in writing:
- Information about the Department’s zero tolerance of sexual abuse and sexual harassment;
  - How to report incidents or suspicion of abuse or harassment; and
  - This policy, 1.3.12 Staff Association and Conduct with Offenders, 3.3.3 Offender Grievance Program, and corresponding site specific procedures.

TSCTC stated that out of the 237 inmates admitted during the past 12 months, all received PREA education within appropriate timeframes.

The facility states that inmates who enter intake immediately watch a PREA video that serves as the education. Interviews with inmates indicated this was occurring regularly.

- (b) *DOC Policy 1.1.17, Prison Rape Elimination Act of 2003 (PREA)*, states that within 30 day of intake, the program or facility will provide education to offenders either in person or through video regarding their right to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents, and regarding program or facility procedures for reporting and responding to such incidents.

TSCTC meets this requirement of the standard by educating inmates during orientation within 30 days of arrival. The education is in person and allows for discussion and questions on the process to be asked.

Interviews with inmates confirmed they have received the education as described.

- (c) TSCTC stated that all inmates were educated within one year of the effective date of the PREA standards. Interviews with inmates confirmed this had occurred.
- (d) *DOC Policy 1.1.17, Prison Rape Elimination Act of 2003 (PREA)*, stated that the program or facility will provide offender education in formats accessible to all offenders, including those who are limited English proficient, deaf, visually impaired, or otherwise disabled, as well as to offenders who have limited reading skills.

TSCTC stated are no limited English proficient inmates incarcerated or developmentally disabled inmates at the facility. Due to the intense programing and physical requirement so of the program, it would be unlikely that either would be housed their.

- (e) *DOC Policy 1.1.17, Prison Rape Elimination Act of 2003 (PREA)* states that the facility will maintain documentation of offender participation in PREA education sessions and have offenders sign the Offender PREA Acknowledgement form. The form was reviewed as supporting documentation.
- (f) During the tour of the facility the auditor was able observe several PREA posters throughout the facility. The information was readily available to inmates.

Interviews with inmates indicated the posters have been available for some time and all inmates were able to articulate that they knew how to report a PREA allegation if they had one.

### **Standard 115.34 Specialized training: Investigations**

- Exceeds Standard (substantially exceeds requirement of standard)
- 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 discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor’s analysis and reasoning, and the auditor’s conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

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



administrative investigations will work in cooperation with the Office Human Resources and be trained in all specialized investigative training topics relevant to confined settings.

Since TSCTC does not conduct its own investigations, an investigator was interviewed while onsite at Montana State Prison. The investigator interview indicated he had received the training.

- (b) The training provided to staff is training that is available through the PREA Resource Center and includes all the training topic including techniques for interviewing sexual abuse victims, proper use of Miranda and Garrity warnings, sexual abuse evidence collection in confinement settings, and the criteria and evidence required to substantiate a case for administrative action or prosecution referral.
- (c) Training rosters were provided as documentation.
- (d) MDOC conducts its own criminal and administrative investigations; therefore, this provision of the standard is not applicable.

### **Standard 115.35 Specialized training: Medical and mental health care**

- Exceeds Standard (substantially exceeds requirement of standard)
- 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 discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor’s analysis and reasoning, and the auditor’s conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

- (a) *MDOC Policy 1.1.17 Prison Rape Elimination Act of 2003 (PREA)* stated that medical and mental health providers will receive additional, specialized training relevant to their role in detecting and assessing signs of sexual abuse and sexual harassment; preservation of evidence, and responding effectively to victims of sexual abuse and sexual harassment.

TSCTC does not have medical and mental health staff onsite. They utilize staff at the Montana State Prison for this purpose. During an audit at Montana State Prison, medical and mental health staff were interviewed.

An interview with a contracted nurse indicated she had not received specialized training as required by this standard. After reviewing training records, she had not received the training.

- (b) TSCTC stated medical staff employed by the agency do not conduct forensic examinations, therefore this provision of the standard is not applicable. Interviews with medical staff reinforced they had not completed the exams.
- (c) Training rosters were provided as documentation that medical and mental health providers have received the specialized training. Rosters indicate 61 medical and mental health staff have been trained.
- (d) TSCTC indicated contractors and volunteers that are medical and mental health care practitioners also receive the training mandated for employees under 115.31 and 115.32, depending upon the practitioner’s status at the agency. A contracted nurse did indicate she had received contractor basic PREA training.

As part of a corrective action, the facility audited the training records and ensured all staff was trained. The facility

also made changes to the PREA procedure to indicate that prior to having contact with inmates, all medical and mental health staff, and contracted medical and mental health staff will complete the National Institute of Correctional Training course of PREA Medical Health Care for Sexual Assault Victims in a Confinement Settings Course.

#### **Standard 115.41 Screening for risk of victimization and abusiveness**

- Exceeds Standard (substantially exceeds requirement of standard)
- 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 discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

(a-b) *MDOC policy 1.1.17, Prison Rape Elimination Act of 2003 (PREA)*, states that risk assessment of all offenders through the use of an objective screening instrument for victimization and abusiveness will take place within 72 hours of intake into a facility or program.

Screenings are completed in person by the PREA Compliance Manager. Interviews with inmates confirmed this initial screening was completed.

- (c) The auditor reviewed the risk assessment tool – *Sexual Predator/Vulnerability PREA Screening Checklist*, which was an objective screening instrument.
- (d) The auditor reviewed completed PREA: Risk Assessment – Sexual Predator/ Vulnerability PREA Screening Checklists to ensure that all the required criteria was being considered to include the following: Possible Victim factors include: Former victim of prison rape or sexual assault within the past ten years; Youthful age (under 25); Elderly (65 or older); Small physical stature (5'0" or less and/or 95lbs or less); Developmental disability/mental health history/physical disability; First time incarcerated; Gay/lesbian/bisexual/transgender/intersex/gender nonconforming; History of any sexual abuse with the past ten years; History of correctional facility consensual sex within the past ten years; Placement in Special Management within the past ten years.

The screening did not include whether the inmate's criminal history is exclusively nonviolent or the inmate's own perception of vulnerability. As part of the corrective action, the facility updated the screening to include considerations of these factors. A memorandum was provided dated that stated that as of July 6, 2016, TSCTC began utilizing the new screening form and copies of the assessments were provided as proof of practice.

The PREA Standard requires that inmates being detained solely for immigration purposes be considered as part of the risk screening. The Montana Department of Corrections only takes custody of inmates who have been criminally sentenced and would not hold inmates solely for immigration purposes. As such, it is not considered during their screening process.

- (e) The *Sexual Predator / Vulnerability PREA Screening Checklist* lists possible predator factors to include: Institutional predatory sexual behavior with the past ten years; current or prior conviction for rape, child abuse or neglect within the past ten years; Sexual abuse or sexual assault toward others or domestic violence with the past ten years; gang affiliation; Institutional strong –arming / assaults within the past ten years; Institutional sexual taunting toward staff or offenders within the past ten years.

(f-g) *MDOC policy 1.1.17, Prison Rape Elimination Act of 2003 (PREA)*, states that reassessment will occur within 30 days of intake into a facility or program and when warranted thereafter based on new information.

During interviews with inmates it became unclear if the 30 day reassessment process was actually occurring. The auditors reviewed inmate records and realized that not all inmates were re-screened within 30 days. The PREA Compliance Manager then said that the 30 day rescreening process had begun on 5/10/2016, and copies of the assessments were provided as proof of practice.

- (h) *TSCTC Operating Procedure policy 1.1.17, Prison Rape Elimination Act of 2003 (PREA)*, states that TSCTC prohibits disciplining inmates for refusing to answer questions, or for not disclosing complete information related to:
  - a. Whether the inmate has a mental, physical, or developmental disability;
  - b. Whether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender non-conforming;
  - c. Whether the inmate has previously experienced sexual victimization; and
  - d. The inmates own perception of vulnerability

Interviews with staff that do the screening indicated they understood this requirement. Interviews with inmates did not indicate this had been done in the past.

- (i) Interviews with the PREA Compliance Manager indicated that all staff had access to the risk screening tools in the inmate files. The auditor became concerned that the assessments were not there not limited to need to know individuals.

The PREA Compliance Manager agreed to change his process to maintain the screening forms in a confidential file located in his office. A memorandum provided indicated he had removed all PREA screening information from the inmate files and it is now in a locked filed cabinet that is only accessible to Management.

### **Standard 115.42 Use of screening information**

- Exceeds Standard (substantially exceeds requirement of standard)
- 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 discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor’s analysis and reasoning, and the auditor’s conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

- (a) *TSCTC Operating Procedure 1.1.17, Prison Rape Elimination Act of 2003 (PREA)* stated that staff shall use information from the PREA: Risk Assessment to make informed housing, bed, work, educational, and program assignments.

TSCTC has a computerized database that tracks inmates found to be at high risk of sexual victimization or aggressiveness. This information is available as a designator and is considered when making housing, bed, work, educational, and program assignments. All staff who are making such assignments have access to see if an inmate has a designator. Interviews with staff indicated this process was occurring for all assignments made, however since the primary purpose of the prison is programming, there are only temporary job assignments for each offender.

- (b) *MDOC Policy 4.2.2 – Special Needs Offenders* states that the facility/program administrator, or designee, will establish procedures to:
  - a. Require that offenders are screened within 24 hours of arrival at the facility to identify potential vulnerabilities or tendencies of acting out with sexually aggressive behavior;
  - b. Ensure that offenders identified as high risk with a history of sexually assaultive behavior are assessed by a mental health or other qualified professional;
  - c. Require that offenders with a history of sexually assaultive behavior are monitored and counseled by a qualified professional
  - d. Ensure that offenders at risk for sexual victimization are monitored and counseled by a qualified professional

TSCTC ensures that inmates who have a high risk of victimization or aggressiveness are placed in a location that would offer good staff visibility and monitoring.

- (c) TSCTC states that the housing and program assignments of transgender or intersex inmates is done on a case-by-case basis. Interviews with the PREA Compliance Manager and the Superintendent indicated they were aware of this requirement; however the agency has not established a formalized process. *TSCTC Operating Procedure 1.1.17, Prison Rape Elimination Act of 2003 (PREA)* was updated to reflect the requirements of this standard.
- (d) The facility did not have any transgender inmates at the facility, however the PREA Compliance Manager states at least twice a year he review any threats to safety experienced by the inmate, however there was no formalized process in place to do this. *TSCTC Operating Procedure 1.1.17, Prison Rape Elimination Act of 2003 (PREA)* was updated to include this requirement.
- (e) *TSCTC Operating Procedure 1.1.17, Prison Rape Elimination Act of 2003 (PREA)* states that a transgender or intersex offender’s own views with respect to his or her own safety will be given serious consideration. Interviews with the PREA Compliance Manager states he understood the requirements.
- (f) *TSCTC Operating Procedure 1.1.17, Prison Rape Elimination Act of 2003 (PREA)* states that inmates that are transgender or intersex shall be given the opportunity to shower separately from other inmates.

The facility PREA Compliance Manager explained that inmates will be asked if they would like a private shower, and if so would be allowed a separate shower time.

- (g) There was nothing to indicate the agency places lesbian, gay, and bisexual, transgender, or intersex inmates in dedicated facilities, units, or wings solely on the basis of such identification status. The facility is not subject to a consent decree, legal settlement, or legal judgment for the purpose of protecting such inmates.

**Standard 115.43 Protective custody**

- Exceeds Standard (substantially exceeds requirement of standard)
- 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 discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor’s analysis and reasoning, and the auditor’s conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

- (a) *DOC Policy 1.1.17, Prison Rape Elimination Act of 2003 (PREA)* states that victims of sexual abuse and sexual harassment will only be placed in administrative segregation for protective purposes if all alternative options have been considered. TSCTC reported that no inmates have been placed in administrative segregation for this purpose in the past 12 months.

During the auditor interview with the facility's Superintendent, he did not indicate this was occurring. Interviews with staff who supervise segregation further supported compliance.

- (b) TSCTC stated that if they did have an inmate placed in segregated housing for this purpose, they shall have access to programs, privileges, education, and work opportunities to the extent possible or document why the opportunities have been limited, the duration of the limitation and the reasons for such limitations. There were no examples of this occurring; however staff interviews indicated an understanding of this process.

- (c-e)TSCTC stated that the maximum amount of time an inmate stays in administrative segregations is three weeks; therefore this provision of the standard is not applicable.

### **Standard 115.51 Inmate reporting**

- Exceeds Standard (substantially exceeds requirement of standard)
- 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 discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

- (a) MDOC provides multiple internal ways for inmates to privately report sexual abuse and sexual harassment, retaliation by other inmates or staff for reporting sexual abuse and sexual harassment, and staff neglect or violation of responsibilities that may have contributed to such incidents.

*DOC Policy 1.1.17, Prison Rape Elimination Act of 2003 (PREA)* outlines the process for reporting including directly to a staff or by utilizing the grievance system.

*TSCTC Operating Procedure 1.1.17, Prison Rape Elimination Act of 2003 (PREA)* further states that offenders can report to a staff member, by writing the YWCA, or by utilizing the "lock box".

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

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

Inmates do not have routine access to telephones, therefore the PREA Compliance Manager has educated the inmates population to write the YWCA. He did state that if an inmate were to request a phone call they would make

accommodations.

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

- (c) All staff interviewed were aware they should accept reports made verbally, in writing, anonymously, and from third parties and shall promptly document verbal reports. Staff are also trained on this requirement.
- (d) *TSCTC Operating Procedure 1.1.17, Prison Rape Elimination Act of 2003 (PREA)* states that staff can privately report sexual abuse and sexual harassment by requesting a private meeting with the Correctional Manager. All staff interviewed was aware of this requirement.

**Standard 115.52 Exhaustion of administrative remedies**

- Exceeds Standard (substantially exceeds requirement of standard)
- 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 discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor’s analysis and reasoning, and the auditor’s conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

- (a) *MDOC Policy 3.3.3 – Offender Grievance Program* is the administrative procedure that outlines the process of inmate grievances of sexual abuse.
- (b) The policy stated that there will be no time limit placed on the filing of a grievance alleging sexual abuse and that applicable time limits may be applied to any portion of a grievance that does not allege an incident of sexual abuse.

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

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

- (c) The policy stated that offenders are not required to submit the grievance to the staff member who is the subject of the complaint and the grievance will not be referred to the staff member who is the subject of the complaint.
- (d) The policy stated that a final decision on the merits of any portion of a grievance alleging sexual abuse must be issued within 90 days of the initial filing of the grievance. This does not include time consumed by the offender in preparing any appeals.

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

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

- (e) The policy stated that third parties are permitted to assist offenders in filing requests for administrative remedies relating to allegations of sexual abuse, and are permitted to file such requests on behalf of an offender, with the following exceptions:
  - a. adult offenders must give permission for the third party to file requests and must personally pursue any subsequent steps in the grievance process;
  - b. if the alleged victim is a juvenile a parent or legal guardian is allowed to file a grievance, including appeals, on behalf of the juvenile without the agreement of the juvenile;
  - c. if the alleged victim is a juvenile and the third party is not a parent or legal guardian, the facility may require the juvenile to agree to have the request filed on his or her behalf and may require the juvenile to personally pursue any subsequent steps in the grievance process;
  - d. if the offender declines to have the request processed on his or her behalf the facility will document the offender's decision.
  
- (f) The policy stated that the procedures for the filing of an emergency grievance alleging that an offender is subject to a substantial risk of imminent sexual abuse must include:
  - a. the grievance, or any portion thereof that alleges the substantial risk of imminent sexual abuse, will immediately be forwarded to a level of review at which immediate corrective action may be taken;
  - b. an initial response will be provided within 48 hours;
  - c. a final decision will be made within five calendar days; and
  - d. the initial response and final decision will document the determination whether the offender is in substantial risk of imminent sexual abuse and the action taken in response to the emergency grievance.

There were no examples to review, as there were no grievances filed alleging sexual abuse within the past 12 months.

### **Standard 115.53 Inmate access to outside confidential support services**

- Exceeds Standard (substantially exceeds requirement of standard)
- 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 discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

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

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

During the tour of the facility it was noted that information was not provided to inmates on how to contact Safe Space through educational materials or on PREA posters. Additionally, random interviews with inmates did not show a clear understanding of their option to contact the service.

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

- (b) There was no indication that the facility informs inmates, prior to giving them access, of the extent to which such communications will be monitored and the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws. The facility included this information in the pamphlet that was created that will be readily available to inmates.
- (c) TSCTC has entered into an MOU with Safe Space to provide inmates with confidential emotional support services related to sexual abuse. The MOU was reviewed by the auditor.

### **Standard 115.54 Third-party reporting**

- Exceeds Standard (substantially exceeds requirement of standard)
- 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 discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor’s analysis and reasoning, and the auditor’s conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

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

Interviews with inmates indicated an awareness of third party reporting.

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

### **Standard 115.61 Staff and agency reporting duties**

- Exceeds Standard (substantially exceeds requirement of standard)
- 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 discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor’s analysis and reasoning, and the auditor’s conclusions. This discussion must also include corrective action recommendations where the**



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

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

Staff is trained in their reporting requirements and all staff were able to articulate how they would report when interviewed.

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

Staff understood the requirements of confidentiality when interviewed.

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

- (d) *DOC Policy 1.1.17, Prison Rape Elimination Act of 2003 (PREA)* states that in accordance with *41-3-201 MCA*, if a youth offender (under the age of 18) has been victimized, Department of Public Health and Human Services (DPHHS) must be notified by contacting the Montana child abuse hotline at (866) 820-5437.

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

The auditor was able to review investigations onsite, which showed allegations being reporting to investigators.

**Standard 115.62 Agency protection duties**

- Exceeds Standard (substantially exceeds requirement of standard)
- 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 discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor’s analysis and reasoning, and the auditor’s conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

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

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

The facility states that in the past 12 months, there has not been a time where they have determined an inmate was subjected to substantial risk of imminent sexual abuse.

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

### **Standard 115.63 Reporting to other confinement facilities**

- Exceeds Standard (substantially exceeds requirement of standard)
- 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 discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

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

*TSCTC Operating Procedure 1.1.17, Prison Rape Elimination Act of 2003 (PREA)* states that upon receiving an allegation that an offender was sexually abused while confined at another facility, the Superintendent or designee will notify the administrator of the facility where the alleged incident occurred, the PREA coordinator, and the DOC Office of Investigations of the allegations.

Interviews with the PREA Compliance Manager and Superintendent of the facility indicated they were aware of this process, however the facility states they have not had to make any notifications in the past 12 months, so no notification were able to be reviewed by the auditor.

### **Standard 115.64 Staff first responder duties**

- Exceeds Standard (substantially exceeds requirement of standard)
- 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 discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

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

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

First responder duties have been incorporated into training. During interviews with staff, all were able to clearly describe their first responder duties.

### **Standard 115.65 Coordinated response**

- Exceeds Standard (substantially exceeds requirement of standard)
- 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 discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

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

The coordinated plan outlines staff first responder duties, including immediate notification of the allegation to the Command Post. The Command Post and the PREA Compliance Manager, or designee reviews the allegations and assigns it for investigation. Medical is notified and offers the inmate an assessment. If within 72 hours, TSCTC medical staff will transport the inmate to an outside medical provider for additional assessments. Medical staff notifies the Office of Investigations to obtain the evidence. Medical staff will refer inmates to mental health staff. Mental Health staff (or the Command Post in the event Mental Health staff are unavailable) will complete an Emergency Interview Form.

### **Standard 115.66 Preservation of ability to protect inmates from contact with abusers**

- Exceeds Standard (substantially exceeds requirement of standard)
- 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 discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the**

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

(a-b)TSCTC states it does not enter into collective bargaining, therefore this standard is not applicable.

### **Standard 115.67 Agency protection against retaliation**

- Exceeds Standard (substantially exceeds requirement of standard)
- 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 discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor’s analysis and reasoning, and the auditor’s conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

- (a) *DOC Policy 1.1.17 Prison Rape Elimination Act of 2003 (PREA)* stated that The Department will not tolerate retaliation against offenders, employees, or other parties for reporting sexual misconduct. Individuals that retaliate against any offender or witness are subject to disciplinary action. Facilities and programs will employ protective measures, such as transfers or removals, to separate victims from abusers.
- (b) Interviews with the facility PREA Compliance Manager and facility staff indicated that there are multiple protection measure, such as housing changes or transfers for inmate victims or abusers, removal of alleged staff or inmate abusers from contact with victims, and emotional support services for inmates or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations.
- (c-d)*DOC Policy 1.1.17 Prison Rape Elimination Act of 2003 (PREA)* states that the facility or program will monitor, for at least 90 days, the conduct and treatment of offenders and staff who reported sexual abuse or sexual harassment and offenders who were reported to have suffered sexual abuse or sexual harassment to prevent retaliation. For offenders, this will include periodic status checks. Monitoring will continue beyond 90 days if there is a continuing need. Each facility will designate a staff member responsible for retaliation monitoring. At TSCTC, the PREA Compliance Manager is responsible to conduct the monitoring.

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

- (e) The *Retaliation Monitoring Data Sheet* includes those who cooperated with the investigation.

As part of corrective action, the facility provided documentation that monitoring had occurred on previous allegations.

- (f) The facility as aware the obligation to monitor shall terminate if the agency determines that the allegation is unfounded.

### **Standard 115.68 Post-allegation protective custody**

- Exceeds Standard (substantially exceeds requirement of standard)

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

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

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

### **Standard 115.71 Criminal and administrative agency investigations**

- Exceeds Standard (substantially exceeds requirement of standard)
- 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 discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor’s analysis and reasoning, and the auditor’s conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

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

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

- (b) *DOC Policy 3.1.19, Investigations, DOC Policy 3.1.28* states that specialized training shall be completed prior to conducting sexual assault or other specialty type investigations. Training rosters were provided to the auditors, which showed investigators at TSCTC had received the specialized training. Interviews with investigators also indicated training had been received.
- (c) Interviews with investigators indicated they understood they shall gather and preserve direct and circumstantial evidence, including any available DNA evidence and any available electronic monitoring data and shall interview alleged victims, suspected perpetrators, and witnesses; and shall review prior complaints and reports of sexual abuse involving the suspected perpetrator.
- (d) Interviews with investigators indicated they understood that if the quality of evidence appears to support criminal prosecution, the agency shall conduct compelled interviews only after consulting with prosecutors.

- (e) Interviews with investigators indicated they understood the credibility of an alleged victim, suspect, or witness shall not be determined by the person’s status as an inmate or a staff and that they would not require an inmate who alleged sexual abuse to submit to a polygraph examination or other truth telling device as a condition for proceeding with an investigation.
- (f-g) Administrative investigations were reviewed during the audit. The investigations documented in the written reports provided a description of evidence, reasons behind credibility assessments, and investigative facts and findings.
- (h) *DOC Policy 3.1.19, Investigations, DOC Policy 3.1.28* states that criminal investigations will be forwarded with a Request for Prosecution to the county attorney having jurisdiction for a determination of whether a case will be prosecuted.

Interviews with investigators indicated an understanding of the requirement.

**Standard 115.72 Evidentiary standard for administrative investigations**

- Exceeds Standard (substantially exceeds requirement of standard)
- 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 discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor’s analysis and reasoning, and the auditor’s conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

The auditor reviewed *DOC Policy 1.3.13, Administrative Investigations and DOC Policy 1.1.17, Prison Rape Elimination Act of 2003 (PREA)* which states that investigators will not use a standard higher than preponderance of the evidence in determining whether allegation of sexual abuse or sexual harassment are substantiated.

Interviews with investigators clearly indicated a good understanding of this requirement.

**Standard 115.73 Reporting to inmates**

- Exceeds Standard (substantially exceeds requirement of standard)
- 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 discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor’s analysis and reasoning, and the auditor’s conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

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

*TSCTC Operating Procedure 1.1.17, Prison Rape Elimination Act of 2003 (PREA)* states that following an allegation of sexual abuse or sexual harassment, the PREA specialist will complete *CTC 1.1.17 (F) PREA Reporting to Offenders* to inform the offender whether the allegation has been determined to be substantiated, unsubstantiated or unfounded.

A interview with the PREA Compliance Managers indicated an understanding of the requirement, however no investigations have been concluded in the past 12 months.

- (b) *TSCTC Operating Procedure 1.1.17, Prison Rape Elimination Act of 2003 (PREA)* also states that the PREA specialist will request the relevant information from the investigative agency in order to inform the offender.
- (c) *TSCTC Operating Procedure 1.1.17, Prison Rape Elimination Act of 2003 (PREA)* states that following a substantiated allegation regarding a staff member, the offender will be informed that the staff member: is no longer posted within the inmate’s unit, is no longer employed at TSCTC, the staff member indicted or convicted on a charge related to sexual abuse within the facility.

The facility PREA Compliance Manager confirmed this is occurring via a checkoff list that is supplied to the inmates.

- (e) The notifications are documented with a letter and a checkoff sheet that the facility PREA Compliance Manager maintains copies of for documentation.
- (f) The facility PREA Compliance Manager was aware that the agency’s obligation to report under this standard shall terminate if the inmate is released from the agency’s custody.

**Standard 115.76 Disciplinary sanctions for staff**

- Exceeds Standard (substantially exceeds requirement of standard)
- 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 discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor’s analysis and reasoning, and the auditor’s conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

- (a) *DOC Policy 1.1.17, Prison Rape Elimination Act of 2003 (PREA)* states staff who violate this procedure are subject to administrative discipline including termination of employment, criminal prosecution, or both.
- (b) An interview with Human Resources indicated that termination shall be the presumptive disciplinary sanction for staff who has engaged in sexual abuse.

The facility stated that in the past 12 months there has been no staff terminated for violation of agency sexual abuse or sexual harassment policies.

- (c) An interview with Human Resources indicated all disciplinary sanctions for violations of agency policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) shall be commensurate with the

nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories.

- (d) An interview with Human Resources indicated all terminations for violations of agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies.

The facility reports that in the past twelve months no staff had been reported to law enforcement agencies.

### **Standard 115.77 Corrective action for contractors and volunteers**

- Exceeds Standard (substantially exceeds requirement of standard)
- 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 discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

- (a) *DOC Policy 1.1.17, Prison Rape Elimination Act of 2003 (PREA)* states that service providers who violate the PREA policy are subject administrative sanctions including removal and denial of access, criminal prosecution or both.

The facility stated that during the previous 12 months there were no contractors or volunteers reported to law enforcement.

- (b) During an auditor interview with the Superintendent, he expressed that any contractor or volunteer who had an allegation of sexual abuse or sexual harassment brought against them would be removed from inmate contact until the investigation was complete. If the allegation was substantiated, their access to the facility would be terminated immediately.

### **Standard 115.78 Disciplinary sanctions for inmates**

- Exceeds Standard (substantially exceeds requirement of standard)
- 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 discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

- (a) *TSCTC Operational Procedure 3.4.1, Institutional Discipline*, outlines that offenders are subject to disciplinary



sanctions if they are found in violation and adjudicated as guilty of a misconduct violation. The sanctions available for sexual abuse and sexual harassment are: rape, sexual assault, sexual abuse, engaging in sexual acts, making sexual proposals, threats, or harassing marks, kissing, or inappropriate touching, directly or through the clothing of the genitalia, anus, groin, breast, inner thigh or buttocks. All are major rule infractions resulting in varying sanctions.

TSCTC reported that in the previous 12 months, there were no reported incidents of inmate on inmate sexual abuse that were substantiated, therefore no disciplinary reports were available to review at the time of the audit.

- (b) The disciplinary grid is commensurate with the nature and circumstances of the offense and the offender. Varying sanctions include cell restriction, detention, and loss of good time, fines and other sanctions.

An interview with the Superintendent indicated this was occurring.

- (c) This process takes into account the inmate's mental disabilities/illness that contributed to his/her behavior when considering what type of sanction, if any, should be imposed.

An interview with the Superintendent indicated this was occurring.

- (d) TSCTC does not offer treatment to address and correct underlying reasons or motivations for sexual abuse. The disciplinary grid does allow for a sanction to be a referral to such treatment.

- (e) The facility PREA Compliance Manager stated that the agency only disciplines an inmate for sexual contact with staff only upon a finding that the staff member did not consent to such contact.

There was no indication that inmates have been disciplined for having sexual contact with a staff that consented.

- (f) TSCTC reported that the agency prohibits disciplinary action for a report of sexual abuse made in good faith upon a reasonable belief that the alleged conduct occurred, even if an investigation does not establish evidence sufficient to substantiate the allegation.

- (g) TSCTC does prohibit all sexual activity between inmates, however consensual sexual activity does not constitute sexual abuse if it is determined that the activity was not coerced.

### **Standard 115.81 Medical and mental health screenings; history of sexual abuse**

- Exceeds Standard (substantially exceeds requirement of standard)
- 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 discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

- (a-b) All inmates are screened pursuant to 115.41. The facility stated that when an inmate discloses they have experienced prior sexual victimization or have perpetrated sexual abuse the inmate is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening.

Interviews with screening and mental health staff supported this was occurring.

(c) TSCTC is a prison facility; therefore this provision of the standard is not applicable.

(d-e)TSCTC's *Disclosure and Consent for Services* form stated that MDOC and TSCTC has set up policies and procedures designed to keep the information confidential and only available to staff members with a need to know the information for treatment, classification, security, or parole purposes.

Interviews with medical and mental health staff indicated a good understanding of confidentiality issues and that information would be strictly limited to staff, as necessary, to inform treatment plans and security and management decisions, including housing, bed, work, educations, and program assignments, or as otherwise required be federal, state, or local law.

### **Standard 115.82 Access to emergency medical and mental health services**

- Exceeds Standard (substantially exceeds requirement of standard)
- 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 discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

- (a) Interviews with medical and mental health staff indicated that inmate victims of sexual abuse receive timely, unimpeded access to emergency medical treatment and crisis intervention services and that the nature and scope of which are determined according to their professional judgment.
- (b) *DOC Policy 1.1.17, Prison Rape Elimination Act of 2003 (PREA)* outlines first responder duties.

All staff interviews indicated a good understanding that that if they were a first responder to a recent abuse, they would take preliminary steps to protect the victim pursuant to 115.62 and immediately notify the appropriate medical and mental health practitioners.

- (c) *DOC Policy 1.1.17, Prison Rape Elimination Act of 2003 (PREA)* states that inmate victims shall be offered timely access to emergency contraception STD prophylaxis.

Interviews with medical staff indicated an understanding of the requirement in the standard.

- (d) *DOC Policy 1.1.17, Prison Rape Elimination Act of 2003 (PREA)* states that services must be available without financial cost to the victim.

There was no indication that any inmate victim had had to pay for services, even if they chose not to cooperate with an investigation.

### **Standard 115.83 Ongoing medical and mental health care for sexual abuse victims and abusers**

- Exceeds Standard (substantially exceeds requirement of standard)
- 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 discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor’s analysis and reasoning, and the auditor’s conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

- (a) *DOC Policy 1.1.17, Prison Rape Elimination Act of 2003 (PREA)* outlines the facility’s medical and mental health evaluation process for inmates who have been victimized by sexual abuse. Medical and mental health evaluations and as appropriate, treatment are completed with inmates who have been victimized by sexual abuse at the facility.
- (b) Interviews with medical and mental health providers indicated the evaluation and treatment of victims shall include, as appropriate, follow-up services, treatment plans, and, when necessary, referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody.
- (c) Interviews with medical and mental health providers indicated that the medical and mental health services are consistent with the community level of care.
- (d-e) Interviews with medical staff indicated victims of sexually abusive vaginal penetration while incarcerated would be offered pregnancy tests and comprehensive information about the timely access to all lawful pregnancy-related medical services. The facility does not currently have any female inmates.
- (f) *DOC Policy 1.1.17, Prison Rape Elimination Act of 2003 (PREA)* states that victims will be referred to appropriate health care providers responsible for treatment and follow up care for sexually transmitted or other communicable diseases.

Interviews with medical staff indicated this was completed.

- (g) *DOC Policy 1.1.17, Prison Rape Elimination Act of 2003 (PREA)* states that treatment will be made available without financial cost.

Interviews indicated treatment would be provider regardless of if the victim named the abuser or cooperated with the inmate investigation.

- (h) Interviews with mental health staff indicated that a mental health evaluation of all known inmate –on-inmate abusers would be completed within 60 days of learning of such abuse history, and treatment offered when deemed appropriate by mental health practitioners.

**Standard 115.86 Sexual abuse incident reviews**

- Exceeds Standard (substantially exceeds requirement of standard)
- 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 discussion, including the evidence relied upon in making the compliance or non-**

**compliance determination, the auditor’s analysis and reasoning, and the auditor’s conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

- (a) *DOC Policy 1.1.17, Prison Rape Elimination Act of 2003 (PREA)* states that the 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.

A member of the incident review team was interviewed as part of the audit. He stated the incident reviews will be completed at an in-person meeting and that they would discuss all the required elements and make recommendations as appropriate, however there was not been an incident closed in the past 12 months.

- (b) *DOC Policy 1.1.17, Prison Rape Elimination Act of 2003 (PREA) and TSCTC Operating Procedure 1.1.17, Prison Rape Elimination Act of 2003 (PREA)* states that such a review will normally occur within thirty days of the conclusion of the investigation.

- (c) *DOC Policy 1.1.17, Prison Rape Elimination Act of 2003 (PREA)* states that the review team will include upper-management from the facility or program, the Department PREA coordinator, line supervisors, investigators, medical and mental health staff, and other staff with direct involvement.

The incident review form requires the review team members to include their name and title.

- (d) *DOC Policy 1.1.17, Prison Rape Elimination Act of 2003 (PREA)* states that the review team will:
  1. consider whether the allegation or investigation indicates a need to change policy or procedure to better prevent, detect or respond to sexual abuse;
  2. consider whether the incident or allegation was motivated by race, ethnicity, gender identity, LGBTI status or perceived status, STG affiliation or was motivated or caused by other group dynamics at the facility or program;
  3. examine the area where the incident allegedly occurred to assess whether the physical barriers in the area may enable abuse;
  4. assess the adequacy of staffing levels in that area during different shifts;
  5. assess whether monitoring technology should be deployed or augmented to supplement supervision by staff; and
  6. prepare a report of its findings and any recommendations for improvement and submit the report to the facility or program administrator, the Department PREA coordinator and facility or program PREA Compliance Manager.

The incident review form outlines all the requirements of this standard.

- (e) *DOC Policy 1.1.17, Prison Rape Elimination Act of 2003 (PREA)* states that the facility or program will implement the recommendations for improvement or document its reasons for not doing so. An interview with the incident review team member indicated he was aware of the requirement.

### **Standard 115.87 Data collection**

- Exceeds Standard (substantially exceeds requirement of standard)
- 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 discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor’s analysis and reasoning, and the auditor’s conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

- (a) *DOC Policy 1.1.17, Prison Rape Elimination Act of 2003 (PREA)* states that MDOC will collect accurate, uniform data for every allegation of sexual abuse at facilities and programs under its direct control using a standardized instrument and definitions set forth in the policy.

MDOC collects uniform data for every allegation of sexual abuse at the facilities under its direct control utilizing a secure drive on the agency data system where a PREA tracking form is accessible for a limited number of agency personnel at each facility and at central office to track incidents of sexual abuse and sexual harassment within the agency.

The agency is currently working to transition this record keeping on an Offender Management Information System (OMIS) and is unsure when the transition will be completed.

- (b) The Agency PREA Coordinator indicated he reviews the incident-based aggregated 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.
- (d) The Agency PREA Coordinator and the facilities retain all incident-based documents, including reports, investigation files and sexual abuse incident reviews.
- (e) The agency does contract with private facilities and the Agency PREA Coordinator retains incident-based aggregated data from those facilities.
- (f) The Agency PREA Coordinator stated he provides all such data from the previous calendar year to the Department of Justice no later than June 30, or by the date they request.

**Standard 115.88 Data review for corrective action**

- Exceeds Standard (substantially exceeds requirement of standard)
- 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 discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor’s analysis and reasoning, and the auditor’s conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

- (a-c) MDOC has developed and published on its website a thorough and detailed report and analysis identifying problem areas and corrective action. Additionally, they have produced and published a report with a comparison with previous years’ data and an assessment regarding the agency’s progress in addressing sexual abuse.

The Agency reviews collected data to assess and improve the effectiveness of its efforts to prevent, detect, and respond to PREA related concerns. The data is used to help identify problem areas and to determine what corrective action is

needed. An annual report was published that has been reviewed and approved by the Agency Director's Office. The agency had redacted personally identifying information.

### Standard 115.89 Data storage, publication, and destruction

- Exceeds Standard (substantially exceeds requirement of standard)
- 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 discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.**

- (a) The Agency PREA Coordinator collects data and reports from all facilities and compiles a report annually of investigations of all allegations of sexual abuse and sexual harassment.
- (b) The Agency Coordinator compiles the report which consists of prevention and response, findings of corrective action and the assessment of the Department's progress in addressing sexual abuse and sexual harassment allegations. This report is compared against previous years. The Agency PREA Coordinator then submits the report to the Director of the Montana Department of Corrections for their review. Once the review is complete a copy is then placed on the department's website. All data and reports are submitted to the U.S. Department of Justice upon request. A review of the agency's website demonstrated that the report for the 2015 calendar year was posted for public review.
- (c) The agency has redacted personal identifying information from the annual report.
- (d) The Agency PREA Coordinator maintains records of sexual abuse and sexual harassment cases pursuant to the state's Records Retention Schedule. All investigation records are retained for five years after the close of the investigation. Excluded are records covered by the Prison Rape Elimination Act which are retained for 10 years after the close of the investigation. This includes incident and investigative reports, evidence cards, photographs, interviews, and other related items.

### AUDITOR CERTIFICATION

I certify that:

- The contents of this report are accurate to the best of my knowledge.
- No conflict of interest exists with respect to my ability to conduct an audit of the agency under review, and
- I have not included in the final report any personally identifiable information (PII) about any inmate or staff member, except where the names of administrative personnel are specifically requested in the report template.

\_\_\_\_\_  
Auditor Signature  
PREA Audit Report

\_\_\_\_\_  
October 18, 2016

Date