

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

Interim Final

Date of Report 10-07-2019

Auditor Information

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Telephone: 405-945-1951	Date of Facility Visit: February 4-6, 2019

Agency Information

Name of Agency: Metropolitan Detention Center	Governing Authority or Parent Agency (If Applicable): Bernalillo County
Physical Address: 101 Deputy Dean Miera Dr. SW	City, State, Zip: Albuquerque, NM 87151
Mailing Address: Click or tap here to enter text.	City, State, Zip: Click or tap here to enter text.
Telephone: 505-839-8700	Is Agency accredited by any organization? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
The Agency Is:	<input type="checkbox"/> Military <input type="checkbox"/> Private for Profit <input type="checkbox"/> Private not for Profit
<input type="checkbox"/> Municipal <input checked="" type="checkbox"/> County	<input type="checkbox"/> State <input type="checkbox"/> Federal

Agency mission: The mission of the Metropolitan Detention Center is to protect the public and provide a safe and secure environment for both inmates and staff under the principles of direct supervision and in accordance with the American Correctional Association (ACA) standards.

Agency Website with PREA Information: <http://www.bernco.gov/metropolitan-detention-center/prison-rape-elimination-act.aspx>

Agency Chief Executive Officer

Name: Ralph Fernandez	Title: Chief of Corrections
Email: rfernandez@bernco.gov	Telephone: 505-839-8701

Agency-Wide PREA Coordinator

Name: Roman Varela	Title: Interim PREA Administrator
Email: ravarela@bernco.gov	Telephone: 505-839-8860
PREA Coordinator Reports to: Rosanne Otero, Director of Administrative Services	Number of Compliance Managers who report to the PREA Coordinator 1

Facility Information

Name of Facility: Metropolitan Detention Center			
Physical Address: 100 Deputy Dean Miera Drive, SW; Albuquerque, NM 87151			
Mailing Address (if different than above): Click or tap here to enter text.			
Telephone Number: 505-837-8700			
The Facility Is:	<input type="checkbox"/> Military	<input type="checkbox"/> Private for profit	<input type="checkbox"/> Private not for profit
<input type="checkbox"/> Municipal	<input checked="" type="checkbox"/> County	<input type="checkbox"/> State	<input type="checkbox"/> Federal
Facility Type:	<input checked="" type="checkbox"/> Jail	<input type="checkbox"/> Prison	

Facility Mission: The mission of the Metropolitan Detention Center is to protect the public and provide a safe and secure environment for both inmates and staff under the principles of direct supervision and in accordance with the American Correctional Association (ACA) standards.

Facility Website with PREA Information: <http://www.bernco.gov/metropolitan-detention-center/prison-rape-elimination-act.aspx>

Warden/Superintendent

Name: Ralph Fernandez	Title: Chief of Corrections
Email: rfernandez@bernco.gov	Telephone: 505-839-8876

Facility PREA Compliance Manager

Name: Roman Varela	Title: PREA Compliance Officer
Email: rvarela@bernco.gov	Telephone: 505-839-8860

Facility Health Service Administrator

Name: Jessie Phelps	Title: Health Services Administrator
Email: jephelps@correctcaresolutions.com	Telephone: 505-839-8830

Facility Characteristics				
Designated Facility Capacity: 2,236		Current Population of Facility: 1,317		
Number of inmates admitted to facility during the past 12 months				24,898
Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 30 days or more:				3,141
Number of inmates admitted to facility during the past 12 months whose length of stay in the facility was for 72 hours or more:				11,908
Number of inmates on date of audit who were admitted to facility prior to August 20, 2012:				0
Age Range of Population:	Youthful Inmates Under 18: N/A	Adults: 18-85		
Are youthful inmates housed separately from the adult population?		<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/> NA
Number of youthful inmates housed at this facility during the past 12 months:				0
Average length of stay or time under supervision:				20.75 days
Facility security level/inmate custody levels:				1-9 High to Low
Number of staff currently employed by the facility who may have contact with inmates:				541
Number of staff hired by the facility during the past 12 months who may have contact with inmates:				172
Number of contracts in the past 12 months for services with contractors who may have contact with inmates:				292
Physical Plant				
Number of Buildings: 1		Number of Single Cell Housing Units: 1		
Number of Multiple Occupancy Cell Housing Units:		29: 8 in Echo, 8 in Fox, 8 in RHU, 4 in PAC, and 1 in Medical		
Number of Open Bay/Dorm Housing Units:		8 (in Delta)		
Number of Segregation Cells (Administrative and Disciplinary):		160 (5 pods in RHU)		
Description of any video or electronic monitoring technology (including any relevant information about where cameras are placed, where the control room is, retention of video, etc.):				
There are 280 CCTV cameras. All are recorded on DVR, with state-mandated 90-day retention.				
Medical				
Type of Medical Facility:		Infirmary		
Forensic sexual assault medical exams are conducted at:		There is capacity for these to be done on-site, or at a local hospital.		
Other				
Number of volunteers and individual contractors, who may have contact with inmates, currently authorized to enter the facility:				466
Number of investigators the agency currently employs to investigate allegations of sexual abuse:				4

Audit Findings

Audit Narrative

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

Executive Summary

On March 14, 2019, I provided a PREA Audit Interim Report to Bernalillo County Metropolitan Detention Center, after reviewing documentation that was provided during a Pre-Audit process and conducting an on-site review of the facility February 4-6, 2019. Then, during a 180-day Corrective Action Period, which ended September 10, 2019, the agency provided documentation of MDC's compliance with the Standards with which they previously had failed to show compliance during the initial phases of the audit. In this "Final Report," I include information regarding all phases of the audit, as well as explaining the evidence provided, along with the reasoning behind the final determinations of compliance. It must be noted that there have been some staff changes during the audit. A new Director of Administrative Services started before the on-site portion of the audit. She supervises the PREA Administrator. The PREA Compliance Officer became the Interim PREA Administrator after the initial phases of the audit were completed. These individuals will be referred to, in this report, as the "current" PREA Administration, for clarity and brevity. The reader should also know that policy references in this report are from the policies in effect during the 12 months prior to the Interim Report, not using the numbering and labeling system adopted during the CAP when revisions were made.

Audit Findings Narrative

I was contacted by the now former Director of Administrative Services at the Bernalillo County Metropolitan Detention Center (MDC), on October 2, 2018, seeking to get a PREA Audit completed in January 2019. This prompted a series of communications regarding the contract and eventual audit. The on-site portion of the audit was eventually scheduled for February 4-6, 2019.

On December 11, 2018, I received an email from the now former MDC PREA Administrator, stating that the Director of Administrative Services was no longer in the position, but that the agency still planned to move on with the audit. This triggered a series of emails and phone calls regarding the audit. I was the DOJ Certified PREA Auditor for this audit, referred to as "the auditor" in this report. PREA America Project Manager Tom Kovach was the other half of the audit team. Mr. Kovach performed logistics for the audit, collected documentation, and conducted a number of interviews. As the audit team waited for required documentation to review, the now former PREA Administrator advanced unsupported speculations that there was a concerted effort underway to undermine PREA at MDC. The audit team tried to encourage the now former PREA Administrator to discuss the actual business of the audit

process, and to provide facts in a verifiable systematic way, so that the level of PREA compliance could be determined objectively, according to processes spelled out in the PREA Auditor Handbook.

On December 15, 2018, the audit team received an email from the now current PREA Administrator in his capacity as the PREA Compliance Officer at the time. He was seeking information to put on the notices that would announce the upcoming audit. Wording for the Audit Notice Posting was sent, with instructions to print on colored paper and about proper distribution of the posting. He developed the Spanish language posting that was utilized. Proof of posting was verified December 20 by emailed photos of the various locations in the facility where the postings were placed. Postings were replaced when they were torn down or damaged. The postings were observed by the audit team during the on-site audit physical plant tour.

An encrypted flash drive was received from the now former PREA Administrator 01-07-2019 containing the Pre-Audit Questionnaire (PAQ) and some supporting documents, but not all the documentation that is required. Many emails were exchanged during the weeks leading up to the on-site audit, with additional information and documentation. Also, another thumb drive of documentation was received January 22, 2019. Further documentation was provided the day of the on-site audit and afterward.

During the Pre-Audit Phase, an extensive desk audit of the facility/agency was conducted, including a review of the PAQ, policies, and procedures, as well as supporting documentation. Several emails were exchanged to clarify issues. This phase of the audit was used to collaborate with the facility staff on questions and concerns with documenting compliance. The communication with the facility staff was used, not only to understand the policies and procedures unique to the facility, but also how PREA was put into practice. Internet research was done on the facility.

All documents received were reviewed, including logs, training files and curricula. Background checks of staff, contractors, and volunteers were randomly selected for review, to verify compliance with required initial background checks and 5-year rechecks. Inmates were randomly selected to verify that they had received PREA education and PREA Screenings. A Victim's Advocate from the New Mexico Rape Crisis Center was interviewed, and additional research was completed, to verify the level of sexual assault services available to MDC inmates.

The on-site audit started on February 4, 2019, with a briefing. The briefing included confirmation of current population, agenda and logistics review, discussion of mandatory reporting, and clarifying the need to allow any staff or resident who requests an interview to get one. The audit team checked to see if there were questions or concerns. The site review included obtaining and studying the facility diagram of the physical plant. During the facility site review, staff and inmates, and their supervision and movement, were observed. Casual conversations were conducted to ascertain if observations made were of "normal" supervision and movement. Random checks were made to assure doors intended to be secured were locked. Random checks were made of PREA Hotline phones, to verify their functionality. All housing units and bathroom facilities were inspected for compliance with regulations regarding cross-gender supervision, which resulted in concerns in most areas. Plans began immediately for changes to be made, so that strip-search, and shower areas could provide better privacy during cross-gender supervision. A camera review was conducted for those areas with cameras. Plans were made for additional cameras to be added. All areas of the physical plants were observed, with attention to those areas which statistically are high-risk for sexual abuse. PREA Postings were verified, including third-party reporting postings in the visitation area. Confirmation of the availability to staff of hard-copy First Responder Duties was also a part of the site review. Blind spots were identified, and procedures for checking them were verified.

Interviews were selected in accordance with the guidance of the PREA Auditor Handbook, with random selections of inmates to ensure diversity of geographic location (from each housing unit), race, and those with risk factors. Random staff interviews were made to include gender, shift, and posting diversity. Interviews were held in a conversational manner, to gain the confidence of those interviewed and to put them at ease so the audit team could better comprehend their understanding of PREA and the practices in the facility.

44 interviews of inmates were conducted, half of which were randomly selected from housing units and the other half randomly selected from targeted groups as defined by the PREA Auditor Handbook. In addition to making selections from each pod, the auditor selected from each racial and age group represented in the population. Also, the auditor interviewed inmates who can be considered to have one or more risk factors based on the following criteria: prior offense history; LGBTI status or perception; various mental and physical disabilities and health needs; and history of being sexually abused. The auditor also interviewed inmates who have been alleged victims of sexual abuse or harassment at MDC. The audit team interviewed inmates and staff regarding how services and information are provided for inmates with limited English proficiency.

The following interviews of staff were conducted: agency head; agency PREA administrator; agency human resources; investigators; PREA compliance manager; higher-level staff for unannounced rounds; medical staff; mental health staff; SANE nurse; volunteer; staff who perform screening and intake; staff who monitor for retaliation; incident review team members; and staff who monitor in Isolation. There were 14 in total, plus the victim's advocate. An additional 14 staff were randomly selected, representing all genders, stations, housing units, and shifts.

The exit briefing addressed all aspects of the audit to date. No determination of compliance was given. The recap of the aggregated information obtained and observed was summarized. This included a SWOT briefing (an analysis of Strengths, Weaknesses, Opportunities, and Threats), provided by request of the facility staff, to assist in furthering the efforts of the facility to prevent and detect sexual abuse and harassment.

After the on-site audit, there were many additional communications with the facility leadership because the now former PREA Administrator had made assertions to the audit team regarding compliance and non-compliance with the Standards. Having followed the required protocols of the PREA Auditor's Handbook for determining compliance, it was observed that many of those assertions were inaccurate. Regulations with which there was compliance had been represented as if they were not in compliance; and regulations with which there had not been compliance had been represented as if they were. There were several calls and dozens of emails to clarify issues and get additional documents, to triangulate data to determine what was factually correct. These issues included the 5-year background checks, self-disclosure of prior administrative findings by staff, training for staff, inmate reporting confidentiality, and visitation.

Additionally, a second trip was made on 02-21-2019 to meet with the command staff, including the Office of Professional Standards, to further discuss what was needed to verify compliance and what changes may be required to policy and practice to achieve compliance. The 3-and-a-half-hour meeting discussed the investigation process at length. Also discussed in the meeting were explanations and clarifications regarding the McClendon Federal Lawsuit. This action was filed in 1995 and settled in March of 2017. The multi-faceted lawsuit covered issues of arrest, but primarily issues of incarceration. Part of the settlement was a requirement for PREA compliance, known as Domain 7. A negotiated policy was put in place, as well as resulting procedures. Changes to the policy must be re-negotiated with the plaintiff's attorneys.

As the Interim Report was written, the beginnings of the CAP were starting to emerge, and MDC was on track to provide additional verification of PREA Compliance right away. After the Interim Report was provided to the agency on 03-14-2019, work continued on the CAP. The CAP was divided into sections, labeled to match the PREA Standards with which the agency still needed to show compliance. Although the agency was already implementing corrective actions, the final version of the CAP was not agreed to until April 8, 2019. This Final Report summarizes each area of the CAP, below, in the “Summary of Corrective Action”. Following that Summary is the bulk of this report, detailing the audit findings regarding each PREA Standard. Additional details are provided regarding corrective actions in the narratives of the Standards that were included in the CAP.

Documentation reviewed for this audit includes: PREA Oversight Diagram; PREA policies, drafts, and revisions; PREA Administrator Job Description; Organizational Chart; PREA Compliance Manager Job Description; Pending Confinement contracts; Staffing Plan (and review); Search Policy; Incident Check List; Doorbell Project; Staffing and Supervision Policy; Training Logs; Search Training; Cross-Gender Search Reports; educational materials, including printed materials and a video; LEP Policy; Inmate Workers’ Policy; PREA Education Compliance Checks; 5-Year Background Check Documentation; Background check procedure; Hiring and Promotion Policies 3.37, 3.09; Employee questions for prior sexual abuse and harassment administrative findings; Camera Project Documentation; Department Kitchen Redesign Documentation; Albuquerque SANE Collaborative Form and Contract; Inmate Handbook; Staff Advocate Documentation; MOU Victims Services; Advocacy Training and sign-in sheet; Victims Advocate Form; Policy 3.07 P, Mental Health Services; MOU with Bernalillo County Sheriff; Policy PER3.07 R, PER3.35; Incident Review Form; Staff Training Curriculum and Training Logs; Training Logs and Training Curriculum for Volunteers and Contractors; Inmate Orientation Manual and translation; PREA Victim Pamphlet; Investigator Trainings, Certificates, and Logs; Medical Training Policies, Certificates, and Logs; Screening Policies; 30-Day Reassessment Spreadsheet; PREA Screening Tool; PREA Profile Check List; Medical Screening Form; Sample Screening and override example; Inmate Reporting Posters; Staff Reporting Poster; Third-Party Reporting Poster; MOU with Rape Crisis Center; Immigration Detention Policy; Sample Report; Draft Reporting Policy; Examples of Reports to and from other facilities; First Responder Cards; Sexual Assault Response Protocol and Forms; Collective Bargaining Contract; Retaliation Monitoring Forms; Investigations Worksheet; Example Report; Example Referral to Prosecution; Examples of Reporting to Inmates; Examples of Termination and Resignations; Examples of Mental Health Request; Mental Health Referral Logs; Examples of Incident Reviews; 30 investigations; Annual Report; Facility Schematic; ACA Report; McClendon Settlement Information; and the Mock Audit. Additional documentation reviewed is mentioned in the narratives of this report.

Facility Characteristics

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

Bernalillo County Metropolitan Detention Center (MDC) began construction in 2000 and consisted of three phases. The first phase consisted of a 76-acre site package. The second phase consisted of three housing clusters, totaling 250,445 square feet and housing 1,536 beds. The third phase consisted of an 85,000-square-foot inmate housing facility.

The camera upgrade and expansion project now underway will provide complete camera coverage in outside recreation areas, as well as in all areas inside the facility. A major remodel in the kitchen is underway. This project is designed to increase safety by reducing blind spots in the kitchen and by providing better visibility for all staff and inmates working there. Kitchen functions will be temporarily moved to the warehouse area. Plans to increase supervision of the few inmates who will work there are in place.

Male and Female inmates are housed separately, in several different areas. Units D, E, F each have 8 pods, which are separate housing units as defined in the PREA Standards. There are, in addition, the PAC Unit, with four pods, S/I Unit with 8 pods, and the infirmary. 4 housing units were closed during the audit. Custody levels range from Low to High Risk. Each pod has kiosks that allow for the submission of grievances and PREA allegations, as well as phones for the hotlines. Video visitation is facilitated through the kiosk system. The cells are all wet cells, with two beds to a cell; however, some inmates are kept separately. Segregation mostly holds inmates two to a cell. While the pods are similar in layout, there are two levels, with showers on each level, and a day room. They also have a Corrections Officers' desk area, access to the outdoor recreation area, and side offices, with large, open windows, for programming. The segregation pods have an extra metal barrier along the outside of the cells and along the stairs to the second level. Booking is designed with temporary holding cells and open areas for staff to easily monitor the entire area from the staff area. Private intake and screening rooms are just off the main area. Posters are present for inmate education, along with information placed in each hygiene pack. Plans for strip-search areas were underway, during the on-site audit, to improve upon the shower area currently used. These were completed during the CAP. Transportation has several holding areas and a wet cell. There is an area off Booking for those being released, or for those being moved to a cell. A property area and changing room are there to allow for people to change into street clothes. There is also a law library, and a medical area. A mini ambulance is at the ready to transport over the great distances from one area of the facility to another. The Administration wing and a training area for new staff are not accessible to the inmates. Cross-gender supervision issues existed in many of the shower areas with the toilets, on the pods and in the transportation area, which were addressed during the CAP.

Control surveils the facility, inside and out, with hundreds of cameras. The movements of inmates include to and from multiple programs such as: Addiction Treatment Programs (ATP), Albuquerque Healthcare for the Homeless, Alcoholics Anonymous, A Peaceful Habitation, Religious services, ATTARI – Job opportunity for Returning Citizens, Bernalillo County Supportive Housing, Crossroads/Maya's Place for Women Supportive Housing, Delancy Street, Gordon Bernell Charter School, Keefe Commissary, La Plazita (Native American Services), Narcotics Anonymous, National Alliance for the Mentally Ill (NAMI), New Mexico Breast Feeding Task Force, PB&J Family Services, Rape Crisis Center of Central New Mexico, Recovery Services of New Mexico, Regional District Council Training Trust – Ironworkers Local 847, Sagebrush Community Church, State of New Mexico Department of Health, Still Bridge (formerly ABQ Rescue Mission), The Amity Foundation, The Micah Fellowship, University of New Mexico Center on Alcoholism, Substance Abuse and Addictions (CASAA), University of New Mexico - Fast Track, and the University of New Mexico – Institute of Social Research.

Summary of Audit Findings

The summary should include the number of standards exceeded, number of standards met, and number of standards not met, along with a list of each of the standards in each category. If relevant, provide a

summarized description of the corrective action plan, including deficiencies observed, recommendations made, actions taken by the agency, relevant timelines, and methods used by the auditor to reassess compliance.

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

Number of Standards Exceeded: 0

Number of Standards Met: 45

Number of Standards Not Met: 0

See below for the 21 Standards not met at the time of the PREA Audit Interim Report. The agency demonstrated compliance with all Standards by the end of the Corrective Action Plan (CAP).

Summary of Corrective Action (if any)

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

The now former PREA Administrator stipulated that PREA Coordination had not been occurring at the facility and that policies had been used that were not approved. During the CAP, the auditor reviewed information provided by the agency that indicated that PREA coordination has been established. Also, policies have been updated and approved (including definitions), and are in use, and are consistent with this Standard.

Standard 115.15: Limits to cross-gender viewing and searches

The facility provided a Notice of Noncompliance written by the now former PREA Administrator on 02-08-2018, which included: “Reason for Noncompliance: MDC does not currently document all cross-gender strip searches and cross-gender visual body cavity searches, and shall document all cross-gender pat-down searches of female inmates. Action Plan: The following action plan is designed to address the corresponding areas of noncompliance pertaining to PREA §115.15 (c): To establish multiple avenues to document all cross-gender strip searches and cross-gender visual body cavity searches, and shall document all cross-gender pat-down searches of female inmates for example by creating new incident type report in MDC’s Incident Tracking System, add section to the MDC 125 Incident Checklist, and/or create logs for each unit to track these incidents.” Also provided was a printout of an advanced search of the MDC Information Tracking System, dated 12-28-2018, that states that cross-gender strip-searches were performed and not documented. Therefore, at the time of the Interim Report, the facility still needed to follow through with their identified action plan and also make improvements in nearly every pod, shower, and transportation area, to ensure that inmates can shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks. During the CAP: An etching pattern was added to all lower cell windows on the bottom tiers of the pods, and curtains were added to other bathroom areas to provide privacy. The etching had the effect of clouding/frosting the glass. A barrier was installed in the cells in the transport area, to provide privacy while inmates use the toilets there. Time-stamped digital pictures were taken and provided to the audit team to show compliance. Alterations to glass were made to 8 pods in the Echo Unit, 8 pods in the Fox Unit, 8 Pods in the Restrictive Housing Unit, 4 pods in the PAC Unit (as well as curtains in toilet areas), and in medical and transportation areas. Partitions were also added in

the toilet areas in Transport. Curtains were installed to provide privacy in the toilet areas in the Delta Unit. Delta 5 and 8 are closed. If these pods reopen to house inmates, curtains will be installed before inmates are housed in those pods. Monthly reports were provided to the auditor regarding cross-gender searches. Documentation was accumulated in accordance to the policy quoted above and tracked by the computer. According to the documentation provided, no searches of these types were conducted during the CAP: male staff on female inmate cross-gender strip searches; female staff on male inmate cross-gender strip searches; and male staff on female inmate cross-gender pat searches.

Standard 115.17 Hiring and promotion decisions.

Facilities are required to ask potential employees who might have contact with inmates, whether they have had administrative determinations of being sexually inappropriate with inmates in the past. However, according to the now former PREA Administrator, when applicants provided affirmative answers to the questions about prior administrative findings, or the findings come to light through other sources, the facility seemed unclear regarding what to do, or whether to hire the person. The now former PREA Administrator provided the audit team with an unsolicited October 2018 list of 27 employees who (according to the list) had “no file”, incomplete files, or materials in their file that were hard to read or contradictory. So, at the time of the Interim Report, it was not known by the auditor how proper background checks could be performed, if paperwork could not establish the identity of the employee. Attached to the list was an undated Notice of Noncompliance to PREA Auditor regarding this Standard, signed by the now former PREA Administrator. In addition, the now former PREA Administrator provided the auditor with two memoranda listing her concerns regarding staff possibly fraternizing with inmates, about which she indicated follow-up had not been engaged. The now former PREA Administrator stated that she could not find out whether the agency acted on her memos or not, despite requests for information. One memo was regarding statements by staff that were made at a party, and the other was regarding an administrative finding regarding an applicant during a previous employment. Within the 30 days after the on-site audit, the current Director of Administrative Services provided documentary evidence that these memos and lists were taken seriously, investigated, and received proper dispositions. Interviews indicated the now former PREA Administrator was informed of the actions taken. Interviews with several agency administrators also indicated that the processes for establishing the identity of potential employees was reliable, and according to standard HR industry protocols, or better. However, according to the PREA Auditor Handbook, the auditor needs a triangulation of non-contradictory evidence to determine that a facility is compliant with a Standard. During the CAP, A list of new hires for the last 12 months was sent to the audit team, and 10 employee files were randomly selected for review. These files complied with the provisions of this Standard.

Standard 115.22 Policies to ensure referrals of allegations for investigations.

At the time of the Interim Report, the now former PREA Administrator stipulated that not all allegations are properly investigated at MDC. Also, the policy had some loopholes that violated this Standard, including not requiring all third-party reports to be investigated. During the CAP, policies were revised to assure full compliance with the Standard. All staff were trained on policy updates, and proof of this training was provided. Extra training was provided for all security staff, and even more training was provided for supervisors. An August 13, 2019, email from the current PREA Administrator states, “Attached is the directive on the new PREA Response Procedures and the report from PowerDMS showing the Security Supervisors have signed acknowledging they have read the directive. Also we followed the directive up with providing the Security Supervisors with a classroom training on the new procedures and the documentation of the training is provide as well as the presentation slides.” The directive, sent to all MDC Security Staff, covered the items identified as possible hinderances to full and consistent PREA Compliance, including issues identified regarding other Standards in the CAP, providing a helpful repeat of important points. Then, on top of that, the classroom training provided the lessons in a multimedia format to supervisors.

Standard 115.31 Employee training.

Although most of the employee training appeared to be understood by the staff who were interviewed, the training regarding how to communicate effectively and professionally with inmates, including lesbian, gay, bisexual, transgender, intersex, or gender-nonconforming inmates, did not appear to have been effective. 9 out of 13 staff indicated a lack of knowledge in this area. During the CAP, the agency updated policies relevant to this Standard and provided two relevant trainings to their staff. The trainings were entitled Trans 101 and Communicating Effectively with LGBTI Inmates Training.

Standard 115.34 Specialized training: Investigations.

The now former PREA Administrator stipulated that this Standard was not being followed; that investigations were not being completed according to training received; and that the agency had no experienced sexual abuse investigators. The auditor reviewed investigative work that had been completed by individuals not trained to be sexual abuse investigators; reviewed cases where confidentiality had been violated; and reviewed investigations that did not include the basic required components for complete investigations. This was addressed during the CAP. Investigators received training specific to every issue that was raised during the audit about investigations. The Office of Professional Management held a meeting with the audit team and developed protocols, similar to templates and checklists, to utilize as part of their investigative work and quality assurance practice. The Sergeants, Lieutenants, and Captains were trained on their role in the response to an allegation, so they do not perform any investigation work. The training slides and sign-in sheets were provided to show that this training was completed. Additional investigators were trained. Samples of completed investigations, randomly selected by the auditor, demonstrated compliance with Standard 115.71 and showed that the training is now being used in the practice of providing complete and compliant investigation reports regarding sexual abuse and sexual harassment.

Standard 115.41 Screening for risk of victimization and abusiveness.

A memo from the now former PREA Administrator stated that more information would be forthcoming, reconciling discrepancies regarding this Standard. At the time of the Interim Report, the screening had not been completed in a timely manner on every inmate, but facility records showed that the percentages were improving. Out of 44 inmates interviewed, 7 inmates stated they were not asked any of the screening questions, and another 16 stated they were not asked all the questions. During the CAP, the current PREA Administrator reviewed the screening protocols with the officers engaged in the screening process, and they studied the cases where screenings had not happened in a timely manner, addressing the reasons behind patterns, as well as unusual and individual cases in which the screening did not happen when it should have. In a facility with 25 thousand admissions per year, it appears that there is an understanding that making sustainable changes in booking and classification protocols is particularly important, in order to remain compliant with this Standard. He updated the audit team regularly regarding the slow, steady, and sustainable progress toward 100% compliance. PREA training and policy updates required for other Standards of the CAP also served to solidify appropriate screening practices, especially the training regarding confidentiality and the training regarding working with LGBTI inmates.

Standard 115.42 Use of screening information.

Standard 115.41 is a companion Standard to 115.42. Due to the issues with 115.41 at the time of the Interim Report, it could not be determined whether 115.42 was fully practiced at the facility. Also, the facility's internal tracking regarding compliance with this Standard showed that some 30-day reassessments are not being completed in a timely manner. This was addressed in the CAP. The current PREA Administrator reviewed the reassessment protocols with the officers engaged in the process, and addressed the reasons behind patterns, as well as unusual and individual cases when the

reassessments had not occurred as they should have. He updated the audit team regularly regarding the progress. PREA training and policy updates required for other Standards of the CAP also served to solidify appropriate reassessment practices, especially the training regarding confidentiality and the training regarding working with LGBTI inmates.

Standard 115.52 Exhaustion of administrative remedies.

Grievances reviewed seemed to have many of the same record-keeping and documentation problems identified in the mock audit, although the agency seemed to have identified a remedy to this by the time the Interim Report was written. However, as documented in 115.53 and 115.54 in this report, there was a perception among inmates that making third-party reports or utilizing assistance from family members in the grievance process, would not be confidential. During the CAP, the relevant agency policies were reviewed and revised to meet the PREA requirements for this Standard. Current procedures on record-keeping and documenting were reviewed and updated to meet the revised policy. The updated policy was uploaded to PowerDMS, MDC's policy management software. Staff were required to acknowledge they had read and understood the policy in PowerDMS by an electronic signature. A report from PowerDMS was provided to show compliance. An update was made in the Inmate Handbook to educate inmates regarding that fact that making third-party reports, or utilizing assistance from family members in the grievance process, is confidential. An updated paper copy of the Handbook in English and Spanish was made available in each pod, and an announcement was made about the changes to the Inmate Handbook. The updated Inmate Handbook was made available on the inmate kiosk as well.

Standard 115.53 Inmate access to outside confidential support services.

Interviews and investigative records indicated that advocacy was not offered in a useful way to alleged victims, and that survivors believed that, even if the advocacy were offered, they would not be able to contact advocates confidentially. Just prior to the Interim Report being issued, MDC held Advocacy training for staff, including contractor staff, that was provided by the Rape Crisis Center of Central New Mexico. The staff that attended were Social Service Coordinators (case managers), investigators, contract counselors, and discharge planners. The PowerPoint slides and sign-in sheets were provided as verification. Then, during the CAP, policies and procedures were clarified, so that materials would be provided to inmates up front, before exams and interviews. The related policy updates, and confidentiality training, were provided to all staff, and verification of the training, including affirmations of understanding of the training, was provided.

Standard 115.54 Third-party reporting.

All but 2 inmates interviewed regarding this Standard had the perception that there was no confidentiality in making third-party reports to visitors, or by phone, and they indicated that they believed hotline calls are recorded by the facility. During the CAP, an update was made to the Inmate Handbook to educate inmates that third-party reporting is confidential, and that the PREA hotlines are not recorded. An updated paper copy of the handbook was made available in each pod, and an announcement was made about the changes to the inmate handbook. The updated Inmate Handbook was made available on the inmate kiosk. Verification was provided to the auditor.

Standard 115.61 Staff and agency reporting duties.

The identity of the persons who report sexual abuse or sexual harassment was regularly shared widely without investigative need, according to initial evidence reviewed by the auditor. Staff did not always refrain from revealing any information related to a sexual abuse report to anyone other than to the extent necessary, as specified in agency policy, to make treatment, investigation, and other security and management decisions. In addition, policy allowed for some third-party reports not to be investigated. The now former PREA Administrator agreed that not all parts of this Standard were being practiced at the facility. The agency's commitment to this Standard in the CAP is as follows: "All staff

will be required to review and read the policy concerning confidentiality, and acknowledge they have done these two tasks in PowerDMS. A report showing the acknowledgements by staff will be provided to show compliance. The current policy will be reviewed and revised to ensure all third-party reports are investigated. The updated policy will be uploaded to PowerDMS, MDC's policy management software. Staff will be required to acknowledge they have read and understand the policy in PowerDMS by an electronic signature. A report from PowerDMS will be provided to show compliance." These steps were taken as described. The auditor received verification that all staff acknowledged (and understood) the policy updates and the updated confidentiality training.

Standard 115.64 Staff first responder duties.

The initial policy reviewed requested evidence to be collected from the victim but seemed to ignore the evidence that might be contained on the aggressor. During the CAP, policy updates included the First Responder Duties. Staff were retrained on these duties and acknowledged understanding the training.

Standard 115.65 Coordinated response.

The facility had a Coordinated Response Plan, but it did not appear to be followed consistently. 20 investigations and related documentation were reviewed prior to the Interim Report. Investigations were regularly not immediately assigned, and the CRP not uniformly followed, according to the documentation. 5 randomly selected recent investigations were reviewed during the CAP. The documentation indicated that the CRP was followed as appropriate. In addition, the staff received policy updates and additional training regarding advocacy and First Responder duties.

Standard 115.67 Agency protection against retaliation.

The now former PREA Administrator stipulated that MDC had not yet reached full compliance with this Standard. Of the investigations reviewed, and interviews conducted, prior to the Interim Report, little evidence was found of retaliation monitoring conducted as per the requirements of this Standard. Full retaliation monitoring was implemented during the CAP, and 5 files were randomly selected and reviewed. These files contained documentation showing verification of practice.

Standard 115.71 Criminal and administrative agency investigations.

Prior to the Interim Report, some investigative work had been completed by staff not trained to perform sexual abuse investigations; some allegations had not been investigated in a timely manner; some allegations had not been investigated at all; and other investigations were incomplete. The now former PREA Administrator stated, during a 02-01-2019 phone call, that the facility was "totally" non-compliant with the promptness requirement of this Standard. Of the 7 inmates who provided information to the auditor regarding investigations, either because they were alleged victims, or because they were interviewed as part of an investigation, 100% answered questions in a way that indicated that investigative protocols were not fully followed. During the CAP, 5 investigations were selected from a list of investigations completed after the Interim Report. Each of these investigations was reviewed and was found to comply with all applicable provisions of this Standard.

Standard 115.73 Reporting to inmates.

A number of investigations did not appear to contain appropriate reporting as required by this Standard. The interviews with inmates who had been alleged victims, and the documentation reviewed (including audio recordings of investigative interviews), did not indicate full compliance with this Standard. Some reporting was done in such a way that might put an inmate at increased risk of retaliation. The now former PREA Administrator stipulated that the facility was not compliant with this Standard. During the CAP, new procedures for reporting to inmates were developed, along with a new form to be used. These were reviewed with the auditor. The investigations randomly selected to verify compliance with

115.71 were also checked for compliance with this Standard and were found to be compliant. Also, another 5 examples of reporting to inmates were provided by the agency.

Standard 115.78 Disciplinary sanctions for inmates.

The now former PREA Administrator stated that she had the database changed to indicate non-consent in cases where the sexual contact was consensual. Also, the now former PREA Administrator recommended investigation for false reporting in cases that were determined to be unfounded, without regard for whether there was a reasonable belief by the reporting person that the alleged conduct occurred. During the CAP, the agency provided proof that policy has been changed and implemented to even more clearly prohibit inmate discipline in cases where there is a reasonable belief by the reporting person that the alleged conduct occurred. Previous instructions regarding these issues have been superseded. The MDC software has been demonstrated to accurately record allegations and investigative findings regarding sexual contact between inmates, whether or not it is alleged, or deemed, to be consensual. Documentation of electronic signatures were provided to show that all staff have acknowledged the policy updates and understand them.

Standard 115.88 Data review for corrective action.

At the time of the Interim Report, the agency had not yet completed and issued a report consistent with this Standard. During the CAP, the 2017 Annual Report was completed and published.

Standard 115.89 Data storage, publication, and destruction.

At the time of the Interim Report, the agency had not completed and issued a report consistent with this Standard. During the CAP, the 2017 Annual Report was completed and published at <https://www.bernco.gov/metropolitan-detention-center/resources-reports-and-publications-.aspx>.

Standard 115.401 Frequency and scope of audits. The Interim Report indicated non-compliance with this Standard since MDC had not been previously audited as required. The facility was not audited during the first three-year audit cycle that begin in 2013, and it was not audited in a timely manner during the second audit cycle. Successfully completing this audit brings the agency into temporary compliance with this Standard. The agency is required to have the next PREA audit completed by August 20, 2020.

PREVENTION PLANNING

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

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

115.11 (a)

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

to sexual abuse and sexual harassment? Yes No

115.11 (b)

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

115.11 (c)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

A major problem relating to this Standard, and to several other Standards, had to do with conflicting information provided to the audit team during the pre-audit and on-site audit processes. The guidance from the PREA Resource Center clearly directs auditors to consider conflicting information as a sign of lack of compliance, and as a sign that the agency/facility needs to do more to show compliance. One issue was that, despite approved policies being provided to the audit team, the now former PREA Administrator stated that MDC had "expanded from" those policies to use policies that had not been approved by the agency. To further complicate an already complicated situation, the definition of "sexual misconduct" in the official policy referred to behavior that "does not meet the definition of sexual

abuse or sexual harassment . . .”; yet the definition used in practice, including by attorneys involved in the McClendon lawsuit, appeared to be a widely used definition that makes “sexual misconduct” an umbrella term that includes abuse and harassment as subcategories. The basic lack of agreement on important definitions put most of the administration of PREA in question, especially investigations. Of even greater concern was the statement by the now former PREA Administrator that she had the computer programmed to require “consensual” activity to be coded as “nonconsensual”, so there would be “more reports to read.” Yet, the now former PREA Administrator stated that allegations would not be investigated when no perpetrator was named, indicating another immense misunderstanding of several PREA Standards.

This Standard requires an administrative structure be in place to assure the PREA Standards are followed, and it also requires written policies that do the same. During the Pre-Audit portion of the audit, the agency had a person with the title of PREA Administrator who repeatedly informed the audit team, and provided supportive documentation, that the agency did not have PREA coordination in practice, despite the fact that the person with the title of PREA Administrator is required to perform those tasks, according to other documentation provided, such as the Pre-Audit Questionnaire, PREA Administrator Job Description, and the related policies. The Interim Report indicated that the agency/facility had not demonstrated compliance with this Standard.

Corrective Action: The agency agreed to assure that the practice of PREA coordination would occur in the facility without inconsistent practices, statements or definitions. Definitions of consent would be consistently and accurately applied in practice. Throughout the CAP, consistent PREA coordination was demonstrated, as documentation was provided regarding all 21 Standards in the CAP. In addition, the PREA definitions and policies were updated to eliminate seeming inconsistencies, and all staff were trained on the updates. Documentation of all staff acknowledging, and indicating an understanding of the updates, was provided. The Certificate of Completion was provided to show successful completion by the current PREA Administrator of the *PREA Implementation and Audit Preparedness Training* conducted by the National PREA Resource Center June 10-14, 2019.

In addition, the following email was received from the current PREA Administrator on 07-01-2019:

“Below is the information requested about the additional staff that have been assisting the PREA department at MDC.

- A Security Aid with date of hire of 4/29/2019, became a part of the PREA department on a temporary basis to assist with retaliation monitoring for inmates and staff. With the following job duties:
 - Creating and maintain the retaliation files
 - Maintain the excel spreadsheets utilized to track the retaliation monitoring
 - Conduct the preliminary research needed to conduct a review of the file (i.e., print out inmate housing history, obtain classification history, research if staff member received a negative performance eval, and others)
- An Administrative Officer with date of hire of 5/13/2019, became a part of the PREA department to assist with the day-to-day operations of the PREA department. Below are examples of her job duties.
 - Creating, managing, and maintaining PREA hard case files
 - Collecting and logging PREA inmate education forms
 - Collecting and logging PREA training material
 - Preparing training materials for all PREA trainings
 - Preparing materials for all PREA related meetings

- Updating the PREA data spreadsheet
- Both have received new employee PREA training and attached are their acknowledgment forms.”

Analysis: Written policies, even prior to the revisions made during the CAP, required all the elements that this Standard requires, and the administrative structure includes the administrators who are explicitly required in the Standard. But since the now former PREA Administrator had stated that coordination of PREA did not occur at the facility, the auditor had no choice but to find the agency out of compliance with the actual practice of PREA coordination in the Interim Report. Documentation reviewed includes MDC Policy PER 3.07 I, & F; Definitions; Policy HCA 12.15 B; PREA Administrator Job description; Organizational Chart; PREA Compliance Manager Job Description and Oversight diagram. Since the agency complied with all parts of the CAP, and it has demonstrated active PREA coordination during the 30 days after the on-site audit, and during the 180 days of the CAP, full compliance with this Standard has been established.

Finding: The agency/facility is compliant with this Standard.

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

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

115.12 (a)

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

115.12 (b)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

Currently there are no MDC inmates placed at other facilities.

Analysis: The audit team reviewed pending contracts with Valencia County and Sandoval County, as well as 4 expired contracts that required compliance with PREA and which also required monitoring for PREA compliance. The facility administrator interview, and documentation provided, verify that in the event MDC resumes placing inmates in outside facilities, those facilities will be required to comply with PREA and will be monitored for compliance.

Finding: The agency is compliant with this Standard.

Standard 115.13: Supervision and monitoring

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

115.13 (a)

- Does the agency ensure that each facility has developed a staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring, to protect inmates against sexual abuse? Yes No
- Does the agency ensure that each facility has documented a staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring, to protect inmates against sexual abuse? Yes No
- Does the agency ensure that each facility's staffing plan takes into consideration the generally accepted detention and correctional practices in calculating adequate staffing levels and determining the need for video monitoring? Yes No
- Does the agency ensure that each facility's staffing plan takes into consideration any judicial findings of inadequacy in calculating adequate staffing levels and determining the need for video monitoring? Yes No
- Does the agency ensure that each facility's staffing plan takes into consideration any findings of inadequacy from Federal investigative agencies in calculating adequate staffing levels and determining the need for video monitoring? Yes No
- Does the agency ensure that each facility's staffing plan takes into consideration any findings of inadequacy from internal or external oversight bodies in calculating adequate staffing levels and determining the need for video monitoring? Yes No

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

115.13 (b)

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

115.13 (c)

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

- In the past 12 months, has the facility, in consultation with the agency PREA Coordinator, assessed, determined, and documented whether adjustments are needed to: The resources the facility has available to commit to ensure adherence to the staffing plan? Yes No

115.13 (d)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

The facility has developed, documented, and started making its best efforts to comply on a regular basis with a staffing plan that provides for adequate levels of staffing and video monitoring to protect inmates against abuse, taking into account all parts of this Standard. The staffing plan that takes all parts of this Standard into account is dated 01-04-2019 and is not yet due for review. It must be reviewed at least annually to see if adjustments are needed. Each time the staffing plan is not complied with, the facility is obligated to document and justify all deviations. According to documentation provided to the auditor, as well as staff and administrative interviews, there have been no deviations from the staffing plan, except that the Staffing Plan acknowledges that staff vacancy rates are an issue that only avoids deviations through the use of overtime.

Analysis: The audit team reviewed the facility's Staffing Plan and Mock Audit Non-Compliance issues and the documentation of Average Daily Population, as well as Unannounced Rounds Logs for each housing unit. Emails regarding the development of the staffing plan were provided. They did an audit of their own records regarding how many times unannounced rounds were completed. SEC 8.06 Staffing Around the Clock Supervision policy states in Section F: "Unannounced Rounds: 1. Inmates will be

protected from sexual misconduct, sexual abuse, and sexual harassment. Unit supervisors will make unannounced rounds in housing units covering all shifts to deter staff sexual abuse and sexual harassment. Staff members are prohibited from alerting other staff members that supervisory rounds are occurring unless such announcement is related to the legitimate operational functions of the facility. Documentation will be kept on all unannounced rounds. All rounds should be logged into the housing unit logs as unannounced rounds.”

Finding: The facility is compliant with this Standard.

Standard 115.14: Youthful inmates

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

115.14 (a)

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

115.14 (b)

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

115.14 (c)

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

Auditor Overall Compliance Determination

Exceeds Standard (*Substantially exceeds requirement of standards*)

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

Instructions for Overall Compliance Determination Narrative

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

Bernalillo County Metropolitan Detention Center does not house youthful inmates. Youthful inmates would be permitted to be housed at the Metropolitan Detention Center only under a court order as specified in policy ICL 17.02. This referenced policy states: “A. Juveniles:
 1. If a youth is bound over to District Court for trial as an adult the Court Liaison Lieutenant petitions the court to house him at the local juvenile facility or Youth Diagnostic Center.
 2. If the court orders detention in this facility: A youthful inmate will not be placed in a housing unit in which the youthful inmate will have sight, sound, or physical contact with any adult inmate through use of a shared dayroom or other common space, shower area, or sleeping quarters. In areas outside of housing units, MDC will either: (1) Maintain sight and sound separation between youthful inmates and adult inmates, or (2) Provide direct staff supervision when youthful inmates and adult inmates have sight, sound, or physical contact. MDC will make best efforts to avoid placing youthful inmates in isolation to comply with this provision. Absent exigent circumstances, MDC will not deny youthful inmates daily large-muscle exercise and any legally required special education services to comply with this provision. Youthful inmates will also have access to other programs and work opportunities to the extent possible.
 3. Any juvenile ordered detained at this facility will be managed separately. They have equal access to programs, commissary, religious guidance, recreation, and any other privileges and rights afforded to the protective custody population.”

Analysis: The audit team viewed population reports that specified the age of inmates. All parts of the Standard are addressed in policy; but no youth under the age of 18 have been housed at the facility in the past 12 months.

Finding: The facility is compliant with this Standard.

Standard 115.15: Limits to cross-gender viewing and searches

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

115.15 (a)

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

115.15 (b)

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

115.15 (c)

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

115.15 (d)

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

115.15 (e)

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

115.15 (f)

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

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

The facility had a written policy in place consistent with this Standard. Regarding strip searches, the policy (SEC 8.17) states, "Staff will not conduct cross-gender strip searches or cross-gender visual body cavity searches (meaning a search of the anal or genital opening) except in exigent circumstances. Staff conducting cross-gender strip searches and cross-gender visual body cavity searches will create an incident report to include all necessary information as to the exigent circumstances under which the search was conducted. The incident report will be completed by end of shift and sent to the unit supervisor, the Jail Administrator, the Assistance Chief of Security, the PREA Coordinator and the PREA Special Projects Coordinator." Regarding Pat/Frisk searches, "Cross-gender Pat/Frisk searches of female inmates will not be conducted except in exigent circumstances. Female inmates' access to regularly available programming or other out-of-cell opportunities will not be restricted in order to comply with this provision. Staff conducting cross-gender Pat/Frisk searches of females will create an incident report to include all necessary information as to the exigent circumstance under which the search was conducted. The incident report will be completed by end of shift and sent to the unit supervisor, the Jail Administrator, the Assistant Chief of Security, the PREA Coordinator and the PREA Special Projects Coordinator." All other sub-sections of this Standard are also addressed in the policy. The compliance issues were that these policies were not fully practiced in the facility culture, and that not all inmates could shower without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia.

Corrective Action: An etching pattern was added to all lower cell windows on the bottom tiers of the pods, and curtains were added to other bathroom areas, to provide privacy. A barrier was installed in the cells in the transport area to provide privacy while inmates use the toilets there. Time stamped digital pictures were taken and provided to the audit team to show compliance. Alterations to glass were made to 8 pods in the Echo Unit, 8 pods in the Fox Unit, 8 Pods in the Restrictive Housing Unit, 4 pods in the PAC Unit (as well as curtains in toilet areas), and in medical and transportation areas. Partitions were also added in the toilet areas in Transport. Curtains were installed to provide privacy in the toilet areas in the Delta Unit. Delta 5 and 8 are closed. If these pods reopen to house inmates, curtains will be installed before inmates are housed in those pods.

Monthly reports were provided to the auditor regarding cross-gender searches. Documentation was accumulated in accordance to the policy quoted above and tracked by the computer. According to the documentation provided, no searches of these types were conducted during the CAP: male staff on female inmate cross-gender strip searches; female staff on male inmate cross-gender strip searches; and male staff on female inmate cross-gender pat searches.

Analysis: Prior to the Interim Report, the audit team reviewed Policy SEC 8.17, SEC 8.06; Training Logs, Training Materials including PowerPoints, PRC Moss Group video; Cross-Gender Search Reports; forms and electronic system used for documentation; and signs posted. The facility provided a Notice of Noncompliance written by the now former PREA Administrator on 02-08-2018, which included: "Reason for Noncompliance: MDC does not currently document all cross-gender strip searches and cross-gender visual body cavity searches, and shall document all cross-gender pat-down searches of female inmates. Action Plan: The following action plan is designed to address the corresponding areas of noncompliance pertaining to PREA §115.15 (c): To establish multiple avenues to document all cross-gender strip searches and cross-gender visual body cavity searches, and shall document all cross-gender pat-down searches of female inmates for example by creating new incident type report in MDC's Incident Tracking System, add section to the MDC 125 Incident Checklist, and/or create logs for each unit to track these incidents." Also provided was a printout of an advanced search of the MDC Information Tracking System dated 12-28-2018 that stated that cross-gender strip searches were performed and not documented. Therefore, at the time of the Interim Report, the facility still needed to follow through with their identified action plan, to bring their searches into compliance. They also needed to make improvements in pods, showers, and the transportation area, to ensure that inmates can shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks. These requirements were in the CAP, and the facility provided proof of compliance as agreed.

Finding: The facility is compliant with this Standard.

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

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

115.16 (a)

- Does the agency take appropriate steps to ensure that inmates with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: inmates who are deaf or hard of hearing? Yes No

- Does the agency take appropriate steps to ensure that inmates with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: inmates who are blind or have low vision? Yes No

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

115.16 (b)

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

115.16 (c)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

The agency has established procedures to provide disabled inmates and inmates with limited English proficiency equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment. Agency policy prohibits use of inmate interpreters, inmate readers, or other types of inmate assistants, except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the inmate's safety, the performance of first-response duties under §115.64, or the investigation of the inmate's allegations. Exceptions must be documented. Staff and administrators interviewed indicated an understanding of the importance this Standard, and procedures are in place so inmates with disabilities and with limited English proficiency can have equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment.

Analysis: The audit team reviewed Policy RGT 13.13 and the educational materials and video shown to inmates: HCA 12:22 Procedure A, Education Compliance Check; Interpreter Service Contracts; and PREA Education logs and monthly lists from February through December 2018.

Finding: The facility has shown compliance with this Standard.

Standard 115.17: Hiring and promotion decisions

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

115.17 (a)

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

115.17 (b)

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

115.17 (c)

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

115.17 (d)

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

115.17 (e)

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

115.17 (f)

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

115.17 (g)

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

115.17 (h)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

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

Prior to, and during, the on-site audit, policy was verified which prohibits hiring or promoting anyone who may have contact with inmates, and which prohibits enlisting the services of any contractor who may have contact with inmates who: Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997); Has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or Has been civilly or administratively adjudicated to have engaged in the activity described in paragraph (a)(2) of this section. Agency policy requires the consideration of any incidents of sexual harassment in determining whether to hire or promote anyone, or to enlist the services of any contractor, who may have contact with inmates. The self-declaration form (known at MDC as the Personal Inquiry Questionnaire or PIQ) regarding the adjudications listed above, that applicants must sign, was implemented at MDC in November 2018. Employees already employed when the PIQ was implemented had not signed the form, so they were contacted later for signature. This process was completed during the 30 days after the on-site audit, and verification was provided to the audit team. However, according to the now former PREA Administrator, when applicants provide affirmative answers to the questions about prior administrative findings, or the findings come to light through other sources, the facility seemed unclear regarding what to do, or whether to hire the person. The now former PREA Administrator provided the audit team with an unsolicited October 2018 list of 27 employees who (according to the list) had “no file”, incomplete files, or materials in their file that were hard to read or contradictory. So, at the time of the Interim Report, it was not known by the auditor how proper background checks could be performed, if paperwork could not establish the identity of the employee. Attached to the list was an undated Notice of Noncompliance to PREA Auditor regarding this Standard, signed by the now former PREA Administrator. In addition, the now former PREA Administrator provided the auditor with two memoranda listing her concerns regarding staff possibly fraternizing with inmates, about which the PREA Administrator indicated follow-up had not been engaged. The now former PREA Administrator stated that she could not find out whether the agency acted on her memos or not, despite requests for information. One memo was regarding statements by staff that were made at a party, and the other was regarding an administrative finding regarding an applicant during a previous employment. Within the 30 days after the on-site audit, the current Director of Administrative Services provided documentary evidence that these memos and lists were taken seriously, investigated, and received proper dispositions. Interviews indicated the now former PREA Administrator was informed of the actions taken. Interviews with several agency administrators also indicated that the processes for establishing the identity of potential employees were reliable, and according to standard HR industry protocols, or better. However, according to the PREA Auditor Handbook, the auditor is required to consider contradictory information as lack of verification, and the auditor needs a triangulation of non-contradictory evidence to determine that a facility is compliant with a Standard. Additional verification of compliance with this Standard was sought during the CAP.

Corrective Action: A list of new hires for the last 12 months was sent to the audit team, and 10 employee files were randomly selected for review. These files were provided to the audit team, and all complied with the provisions of this Standard.

Analysis: Prior to the Interim Report, the audit team reviewed the 5-Year Background Check Documentation; the background check procedure; Policy 3.37 and 3.09; Employee questions for prior sexual abuse and harassment; and the Notice of Non-Compliance regarding this Standard. During the 30 days after the on-site audit, the agency completed the remainder of their 5-year background checks that were past due. At the time of the Interim Report, the auditor had not received a triangulation of

consistent evidence regarding the procedure they follow when an employee, or potential employee, has a prior administrative finding, or provides inconsistent/incomplete information. During the CAP, 10 randomly selected employee files complied with this Standard and appeared to have complete and consistent information. This documentary proof of practice, along with interviews and policies indicating compliance, provide a triangulation of evidence to support a finding that the agency is compliant with this Standard.

Finding: The facility has shown compliance with this Standard.

Standard 115.18: Upgrades to facilities and technologies

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

115.18 (a)

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

115.18 (b)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

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

MDC has not acquired any new facilities or made any substantial expansions or modifications of existing facilities since August 20, 2012. MDC is currently updating a video monitoring system and is beginning a kitchen remodel project.

Analysis: The audit team reviewed the Camera Project Documentation, Kitchen Redesign Documentation, including committee presentations, schematics, reports, emails, and minutes.

Finding: The facility has shown compliance with this Standard.

RESPONSIVE PLANNING

Standard 115.21: Evidence protocol and forensic medical examinations

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

115.21 (a)

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

115.21 (b)

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

115.21 (c)

- Does the agency offer all victims of sexual abuse access to forensic medical examinations, whether on-site or at an outside facility, without financial cost, where evidentiarily or medically appropriate? Yes No

- Are such examinations performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) where possible? Yes No
- If SAFEs or SANEs cannot be made available, is the examination performed by other qualified medical practitioners (they must have been specifically trained to conduct sexual assault forensic exams)? Yes No
- Has the agency documented its efforts to provide SAFEs or SANEs? Yes No

115.21 (d)

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

115.21 (e)

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

115.21 (f)

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

115.21 (g)

- Auditor is not required to audit this provision.

115.21 (h)

- If the agency uses a qualified agency staff member or a qualified community-based staff member for the purposes of this section, has the individual been screened for appropriateness to serve in this role and received education concerning sexual assault and forensic examination

issues in general? [N/A if agency attempts to make a victim advocate from a rape crisis center available to victims per 115.21(d) above.] Yes No NA

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

The agency/facility is responsible for conducting administrative investigations, but it is not the entity responsible for conducting criminal sexual abuse investigations. The Bernalillo County Sheriff Department has responsibility for conducting criminal sexual abuse investigations. The facility offers all inmates who experience sexual abuse access to forensic medical examinations, without financial cost to the victim. When possible, SANEs and SAFEs conduct the exams; but when they are not available, a qualified medical practitioner performs the forensic medical examinations. The facility documents efforts to provide SANEs and SAFEs. The facility attempts to make a victim advocate from a rape crisis center available to the victim, either in person or by other means, and documents these efforts. Gail Starr, MSCJA, BS, RN, SANE-A, SANE-P, Clinical Coordinator of the Albuquerque SANE Collaborative states they performed 12 SANE exams at MDC in 2018. This number includes exams for assaults that did not occur in a correctional facility. MDC intake and booking staff and administrators have also facilitated forensic exams and aftercare for survivors of assaults that occurred in the community prior to the victim being booked into the jail on a criminal charge.

Analysis: The audit team reviewed: Albuquerque SANE Collaborative Forms, SANE Contract, Inmate Handbook, Staff Advocate Documentation, MOU Victims Services, Advocacy Training and sign-in sheet, Victims Advocate Form, Policy 3.07 P, MOU with Bernalillo County Sheriff's Department, and an investigation involving a forensic exam.

Finding: The facility has shown compliance with this Standard.

Standard 115.22: Policies to ensure referrals of allegations for investigations

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

115.22 (a)

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

115.22 (b)

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

115.22 (c)

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

115.22 (d)

- Auditor is not required to audit this provision.

115.22 (e)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

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

Policies (notably PRE 3.07) were in place that were consistent with this Standard, for the most part, prior to the audit. The compliance issues involved the practice of this Standard, and the practice (and interpretation) of the related policies in such a way that did follow the Standard.

Corrective Action: Policies were revised to assure full compliance with the Standard. All staff were trained on policy updates, and proof of this training was provided. Extra training was provided for all security staff, and even more training was provided for supervisors. An August 13, 2019, email from the current PREA Administrator states, "Attached is the directive on the new PREA Response Procedures and the report from PowerDMS showing the Security Supervisors have signed acknowledging they have read the directive. Also we followed the directive up with providing the Security Supervisors with a classroom training on the new procedures and the documentation of the training is provide as well as the presentation slides." The directive, sent to all MDC Security Staff, covered the items identified as possible hinderances to full and consistent PREA Compliance, including issues identified regarding other Standards in the CAP, providing a helpful repeat of important points. Then, on top of that, the classroom training provided the lessons in a multimedia format to supervisors.

Analysis: The documents provided to the auditor prior to the Interim Report included a March 11, 2018 Notice of Non-Compliance from a mock audit. It said that not all investigations had been completed in the past 12 months. Despite policies seeming to be consistent with most of this Standard, the current PREA Auditor's findings were consistent with those findings in the mock audit. Investigative files selected randomly by the auditor, as well as allegations selected by the now former PREA Administrator for the auditor to review, also revealed that not all allegations were investigated; and that when they were investigated, not all investigative work was completed by a trained sexual abuse investigator. These points were stipulated to by the now former PREA Administrator, who provided a number of examples of allegations not properly investigated, including some allegations that the now former PREA Administrator appeared to cause not to be investigated, according to accompanying emails and other documentation quoting the now former PREA Administrator. The now former PREA Administrator attached findings to cases which had not been fully investigated; engaged in actions outside the chain of command that were ineffective at resolving problems; evaluated the performance of staff outside the performance evaluation process; and left files in a mess with conflicting information (including findings), lack of oversight, and follow through; or, on the other extreme, duplication of efforts, and conflicts. The audit team reviewed policy PER3.07 R; PER3.35; and "Incident Review Forms" used to review incidents *prior* to investigations. In practice, the wording of the policy, and the "PREA Administrator Incident Review" had the unintended consequence of allowing some allegations to go uninvestigated, or to be delayed before being assigned for sexual abuse investigation. PREA Standard 115.86 would have the agency do the incident review *after* the allegation is investigated.

Also, the policy had some loopholes that violate this Standard, including not requiring all third-party reports to be investigated. The policy needed to be closely reviewed and revised in order to be fully PREA-compliant. The Interim Report stated that steps needed to be taken to incorporate all PREA investigative requirements into practice. Some investigations reviewed by the auditor prior to the Interim Report did not appear to fully follow even the existing policy, not only by leaving out required practices and steps, but by violating the confidentiality of reporting persons without valid investigative reasons. On the other hand, some incidents that did not contain a suspicion or allegation of sexual abuse or sexual harassment may have been investigated and counted as well, adding more confusion to the numbers produced by the facility. Interviews conducted with administrators, in an effort to understand these problems, led the auditor to understand that an investigative backlog had developed over the

course of time, causing a need for a triage type of prioritization system to get this resolved. The possible reasons provided for the development of the backlog include four prominent theories (or a combination): 1) periods of time in the two years prior to the Interim Report when the numbers of allegations skyrocketed beyond what the system, at the time, could handle; 2) hesitations by staff and administrators desiring not to make mistakes, due to the McClendon lawsuit's oversight and the reorganization it caused, along with associated disruption and confusion; 3) triangulation by staff/administrators, while inmates were trying to take advantage of the situation, either by engaging in sexual abuse/harassment or by making allegations that would trigger disruptive systemic responses; and, 4) emerging leaders, changing roles, and new protocols coming on-line too slowly to process all the challenges, resistance, and barriers to the new system.

During the 30 days after the on-site audit, administrators reviewed hundreds of files, attempting to categorize them appropriately and consistently in their computer tracking systems, in order to establish a starting point for corrective action moving forward. At the time of the Interim Report, the agency did not have a backlog, and appeared to be practicing teamwork as well as transparency, and had reports of sexual abuse and sexual harassment categorized in meaningful/useful ways, instead of using vague and confusing, unactionable labels, such as "non-PREA".

The actions completed in the 30 days after the on-site audit, as well as during the CAP, have shown compliance with all provisions of this Standard, and addressed provisions of the other Standards relating to investigations as well.

Finding: The facility has demonstrated compliance with this Standard.

TRAINING AND EDUCATION

Standard 115.31: Employee training

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

115.31 (a)

- Does the agency train all employees who may have contact with inmates on its zero-tolerance policy for sexual abuse and sexual harassment? Yes No
- Does the agency train all employees who may have contact with inmates on how to fulfill their responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures? Yes No
- Does the agency train all employees who may have contact with inmates on inmates' right to be free from sexual abuse and sexual harassment? Yes No
- Does the agency train all employees who may have contact with inmates on the right of inmates and employees to be free from retaliation for reporting sexual abuse and sexual harassment? Yes No

- Does the agency train all employees who may have contact with inmates on the dynamics of sexual abuse and sexual harassment in confinement? Yes No
- Does the agency train all employees who may have contact with inmates on the common reactions of sexual abuse and sexual harassment victims? Yes No
- Does the agency train all employees who may have contact with inmates on how to detect and respond to signs of threatened and actual sexual abuse? Yes No
- Does the agency train all employees who may have contact with inmates on how to avoid inappropriate relationships with inmates? Yes No
- Does the agency train all employees who may have contact with inmates on how to communicate effectively and professionally with inmates, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming inmates? Yes No
- Does the agency train all employees who may have contact with inmates on how to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities? Yes No

115.31 (b)

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

115.31 (c)

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

115.31 (d)

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

Auditor Overall Compliance Determination

Exceeds Standard (*Substantially exceeds requirement of standards*)

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

Instructions for Overall Compliance Determination Narrative

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The agency curriculum indicates that all employees who may have contact with inmates are trained on all required matters, but the on-site audit identified an acknowledgement among staff that they did not have adequate training regarding 115.31 (a) 9, regarding LGBTI inmates.

Corrective Action: During the CAP, the agency updated policies relevant to this Standard and provided two relevant trainings to their staff. The trainings were entitled Trans 101 and Communicating Effectively with LGBTI Inmates Training.

Analysis: Prior to the Interim Report, the audit team reviewed the Staff Training Curriculum (which includes numerous professional-grade PowerPoints) and Training Logs, showing that all staff had the minimally required PREA training. Yet, staff interviewed often did not remember the portion of the training regarding LGBTI inmates. Also, some information received from inmates, including LGBTI inmates, indicated they have heard some comments by staff that are not respectful. This Standard was addressed on the CAP, and the agency went beyond the minimum requirements of the CAP and provided staff with additional training. They provided the curriculum for review. The policy was uploaded into Power DMS, MDC's policy management software. Records were provided to show that 100% of staff acknowledged by electronic signature that they have read the policy and understand it. The LGBTI training was also tracked electronically, and records were provided that showed that all staff had taken the training and passed the post-test with a score of at least 80%. Trainers from the Transgender Resource Center of New Mexico were brought in to provide the Transgender 101 training to Classification Staff, Social Service Coordinators (case managers), Security Supervisors, and Upper Management Staff. The Google Slides of the presentation were provided, along with signature sheets of those who attended.

Finding: The facility is compliant with this Standard.

Standard 115.32: Volunteer and contractor training

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

115.32 (a)

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

115.32 (b)

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

115.32 (c)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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Policy requires all volunteers and contractors who have contact with inmates to be trained on their responsibilities under the agency's policies and procedures regarding sexual abuse/harassment prevention, detection, and response. All volunteers and contractors who have contact with inmates have been notified of the agency's zero-tolerance policy regarding sexual abuse and sexual harassment and have been informed how to report such incidents. The agency maintains documentation confirming that volunteers/contractors understand the training they have received. There was a Notice of Non-Compliance from February 2018 that identified lack of training for contractors and/or volunteers. The agency had made progress toward completion of this goal, but at the time of the on-site audit, a bit of documentation was outstanding. All required remaining documentation was provided during the 30 days after the on-site audit.

Analysis: The audit team reviewed Training Logs and Training Curriculum for Volunteers and Contractors, with sign-in sheets for the past 11 months prior to the Interim Report. Also reviewed were 9 randomly selected contractor files and 5 volunteer files.

Finding: The agency has shown compliance with this Standard.

Standard 115.33: Inmate education

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

115.33 (a)

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

115.33 (b)

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

115.33 (c)

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

115.33 (d)

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

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

115.33 (e)

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

115.33 (f)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

Policy requires that inmates receive information at time of intake about the zero-tolerance policy and how to report incidents or suspicions of sexual abuse or harassment. All inmates have received this information at intakes and have received comprehensive information within 30 days, although full compliance with this Standard has occurred within the past few months. Inmate PREA education is available in accessible formats for all inmates, including for those who are: Limited English proficient, deaf, visually impaired, otherwise disabled, and limited in their reading skills. The agency maintains documentation of inmate participation in PREA education sessions. The agency ensures that key information about the agency's PREA policies is continuously and readily available or visible through posters, inmate handbooks, or other written formats. These were all reviewed during the on-site audit tour.

Analysis: The audit team reviewed the Inmate Orientation Manual and translation; records of inmates receiving education; training materials; and the PREA Victim Pamphlet. The February 8, 2018 Notice of

Non-Compliance (regarding the Mock Audit) was reviewed. It stated that comprehensive education was not provided or documented. Materials were provided seemingly resolving this. Of the 44 inmates interviewed during the on-site audit, 14 stated they had not had PREA education. Also, not all inmates were shown to be educated in a timely fashion, according to the facility's own records, in the materials provided during the current Pre-Audit work; but this was resolved during the 30 days after the on-site audit. The facility provided verification that the inmates who had been missed are now educated, and that their system has been corrected to avoid inmates being missed in the future.

Finding: The facility has shown compliance with this Standard.

Standard 115.34: Specialized training: Investigations

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

115.34 (a)

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

115.34 (b)

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

115.34 (c)

- Does the agency maintain documentation that agency investigators have completed the required specialized training in conducting sexual abuse investigations? [N/A if the agency does

not conduct any form of administrative or criminal sexual abuse investigations. See 115.21(a).]
 Yes No NA

115.34 (d)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

The agency performs its own administrative investigations and coordinates with the Bernalillo County Sheriff's Department regarding criminal investigations. Although the agency policy and training that were reviewed during the pre-audit process seemed to include the general topics from the PREA Standards for this section, the auditor found no experienced investigators who have fully implemented their training, and these Standards, into their investigative work. The now former PREA Administrator stipulated that this Standard was not being followed; that investigations were not being completed according to training received; and that the agency had no experienced sexual abuse investigators. The auditor reviewed investigative work that had been completed by individuals not trained to be sexual abuse investigators; reviewed cases where confidentiality had been violated; and reviewed investigations that did not include the basic minimum required components for complete investigations.

Corrective Action: This was addressed during the CAP. Investigators received training specific to every issue that was raised during the audit about investigations. The Office of Professional Management held a meeting with the audit team and developed protocols, similar to templates and checklists, to utilize as part of their investigative work and quality assurance practice. The Sergeants, Lieutenants, and Captains were trained on their role in the response to an allegation, so they do not perform any investigation work. The training slides and sign in sheets were provided to show that this training was completed. Additional investigators were trained. Samples of completed investigations, randomly selected by the auditor, demonstrated compliance with Standard 115.71 and showed that the training is now being used in the practice of providing complete and compliant investigation reports regarding sexual abuse and sexual harassment.

Analysis: Prior to the Interim Report, the auditor reviewed Investigator Trainings and Certificates and Logs, including the training that BCSO gets. Additionally, more training materials were provided during

the 30 days after the on-site audit, showing that the main sexual abuse investigator, although inexperienced in sexual abuse investigations, has had significant training. The audit team also reviewed Policy PER3.07 in relation to this Standard. This groundwork, combined with the work completed during the CAP, produced investigations that were compliant with this Standard.

Finding: MDC is compliant with this Standard.

Standard 115.35: Specialized training: Medical and mental health care

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

115.35 (a)

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

115.35 (b)

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

115.35 (c)

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

115.35 (d)

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

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

The agency has a policy related to the training of medical and mental health practitioners who work regularly in its facility. All medical and mental health care practitioners who work regularly at this facility are to receive the training required by agency policy, but some documentation was still pending at the time of the on-site audit. This training was completed, and verifying documentation received, during the 30 days after the on-site audit.

Analysis: The audit team reviewed Medical Training Policy found in PER3.07 (7) and HCA 12.15 D. Also reviewed were training, certificates, sign-in sheets, and logs. The online training authentication process was reviewed through an example. Medical and mental health staff were interviewed during the on-site audit.

Finding: The facility is fully compliant with this Standard.

SCREENING FOR RISK OF SEXUAL VICTIMIZATION AND ABUSIVENESS

Standard 115.41: Screening for risk of victimization and abusiveness

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

115.41 (a)

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

115.41 (b)

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

115.41 (c)

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

115.41 (d)

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (1) Whether the inmate has a mental, physical, or developmental disability? Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (2) The age of the inmate? Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (3) The physical build of the inmate? Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (4) Whether the inmate has previously been incarcerated?
 Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (5) Whether the inmate's criminal history is exclusively nonviolent?
 Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (6) Whether the inmate has prior convictions for sex offenses against an adult or child? Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (7) Whether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming (the facility affirmatively asks the inmate about his/her sexual orientation and gender identity AND makes a subjective determination based on the screener's perception whether the inmate is gender non-conforming or otherwise may be perceived to be LGBTI)? Yes No

- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (8) Whether the inmate has previously experienced sexual victimization? Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (9) The inmate's own perception of vulnerability? Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess inmates for risk of sexual victimization: (10) Whether the inmate is detained solely for civil immigration purposes? Yes No

115.41 (e)

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

115.41 (f)

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

115.41 (g)

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

115.41 (h)

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

115.41 (i)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

The agency had a policy, even prior to the updates made during the CAP that required screening (upon admission to a facility or transfer to another facility) for risk of sexual abuse victimization or sexual abusiveness toward other inmates. The policy requires that inmates be screened, for risk of sexual victimization or risk of sexually abusing other inmates, within 72 hours of their intake. Risk assessment is conducted using an objective screening instrument, which considers all the areas of risk explicitly mentioned in this Standard. The main compliance issue was that not all inmates were being screened after being booked into the facility. Facility records indicated that screening had not been completed on every inmate, but the MDC records showed the percentages were improving. Out of 44 inmates interviewed, 7 inmates stated they were not asked any of the screening questions, and another 16 stated they were not asked all the questions. Of this last group, 7 indicated they were not affirmatively asked about their sexual orientation and gender identity, and 2 stated they were not asked any of the questions except those regarding medical and mental health history. 3 stated the interview was not in a private setting that would ensure that sensitive information is not exploited to the inmate's detriment by staff or other inmates.

Corrective Action: The current PREA Administrator reviewed the screening protocols with the officers engaged in the screening process, and studied the cases where screenings had not happened in a timely manner, addressing the reasons behind patterns, as well as unusual and individual cases in which the screening did not happen when it should have. In a facility with 25 thousand admissions per year, it appears that there is an understanding that making sustainable changes in booking and classification protocols is particularly important in order to remain compliant with this Standard. He updated the audit team regularly regarding the slow, steady, and sustainable progress toward 100%

compliance. PREA training and policy updates required for other Standards of the CAP also served to solidify appropriate screening practices, especially the training regarding confidentiality and the training regarding working with LGBTI inmates.

Analysis: Prior to the Interim Report, the auditor reviewed Policy APO16.00(6); ICL17.00 F; ICL 17.01 C (11); the 30-Day Reassessment Spreadsheet; PREA Screening Tool; PREA Profile Checklist; Medical Screening Form; randomly selected screenings; and the memo from the now former PREA Administrator indicating that more information is forthcoming, toward reconciling discrepancies. By March, the facility's tracking system indicated screenings were being completed in a timely manner on 97% of inmates. All inmates were being screened, but some were not completed within the 72-hour requirement. During the CAP, monthly reviews of the progress were held. The percentage was brought to 100% minus 5 cases, then finally to 100% with no exceptions. The auditor randomly selected 15 inmates and was provided the screenings and reassessments (as applicable), and the auditor also found 100% compliance of this Standard in the inmate files sampled.

Finding: The facility is compliant with this Standard.

Standard 115.42: Use of screening information

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

115.42 (a)

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

115.42 (b)

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

115.42 (c)

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

115.42 (d)

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

115.42 (e)

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

115.42 (f)

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

115.42 (g)

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

bisexual, transgender, or intersex inmates, does the agency always refrain from placing: intersex inmates in dedicated facilities, units, or wings solely on the basis of such identification or status? Yes No

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

The agency/facility policy requires the use of information from the risk screening required by § 115.41 to inform housing, bed, work, education, and program assignments with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive. The agency/facility is required to make individualized determinations about how to ensure the safety of each inmate.

Corrective Action: The current PREA Administrator reviewed the reassessment protocols with the officers engaged in the process, and addressed the reasons behind patterns, as well as unusual and individual cases when the reassessments had not occurred as they should have. He updated the audit team regularly regarding the progress. PREA training and policy updates required for other Standards of the CAP also served to solidify appropriate reassessment practices, especially the training regarding confidentiality and the training regarding working with LGBTI inmates.

Analysis: The auditor reviewed policies APO 16.00(10) and ICL 17.00G(3) H(2); and reviewed samples of risk screenings and reassessments. Since, at the time of the Interim Report, the facility was not fully compliant with 115.41, it could not be determined whether 115.42 was fully practiced at the facility; so, this Standard was on the CAP. As with the screenings, the facility's internal tracking regarding compliance with this Standard also showed the percentage of inmates who receive 30-day reassessments was increasing. After the facility had provided documentation showing 100% compliance with Standard 115.41, the auditor randomly selected 15 inmates and was provided the screenings and reassessments (as applicable), and the auditor also found 100% compliance with this Standard in the inmate files sampled.

Finding: The facility is compliant with this Standard.

Standard 115.43: Protective Custody

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

115.43 (a)

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

115.43 (b)

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

115.43 (c)

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

115.43 (d)

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

115.43 (e)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

The agency has a policy prohibiting the placement of inmates at high risk for sexual victimization in involuntary segregated housing, unless an assessment of all available alternatives has been made and a determination has been made that there is no available alternative means of separation from likely abusers. There have been no inmates at risk of sexual victimization who were held in involuntary segregated housing for their protection in the 12 months prior to the PAQ. Policy and procedure assure that inmates placed in segregated housing for this purpose shall have access to programs, privileges, education, and work opportunities to the extent possible. If the facility restricts access to programs, privileges, education, or work opportunities, the facility will document: (1) The opportunities that have been limited; (2) The duration of the limitation; and (3) The reasons for such limitations. They will be reviewed weekly to try to find alternative placements.

Analysis: The audit team reviewed policies ICL17.00 (6) and PER3.07 C. No involuntary segregation has occurred because of an inmate being at high risk of sexual victimization in 2018, according to documentation reviewed and interviews conducted.

Finding: The facility is compliant with this Standard.

REPORTING

Standard 115.51: Inmate reporting

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

115.51 (a)

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

115.51 (b)

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

115.51 (c)

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

115.51 (d)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

The agency has established procedures allowing for multiple internal ways for inmates to report privately to agency officials about: 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. The agency provides at least one way for inmates to report abuse or harassment to a public or private entity or office that is not part of the agency. The agency has a policy mandating that staff promptly accept reports of sexual abuse and sexual harassment made verbally, in writing, anonymously, and from third parties, and to give these reports promptly to their supervisor who will notify the appropriate official(s) for investigation. Staff and inmates are informed of these procedures in writing, in training, verbally, and through signs posted in the facility. An issue addressed in the 30 days after the on-site audit had to do with anonymous reports that were likely just to be forwarded to the facility without redaction. A protocol was established to make sure this Standard was followed in that regard.

Analysis: The audit team reviewed the Inmate Handbook, reporting posters, MOU With Rape Crisis Center, Polices REC 6.13 and PER3.07 H. Compliance appears to have been achieved since the February 2018 mock audit. The Statement of Non-Compliance written at that time states: "MDC does not currently provide at least one way for inmates to report abuse or harassment to a public or private entity or office that is not part of the agency, and that is able to receive and immediately forward inmate reports of sexual abuse and sexual harassment to agency officials, allowing the inmate to remain anonymous upon request."

Finding: Since the facility was only recently compliant this this Standard, continuing compliance was observed during the CAP, although this Standard was not on the CAP. The success of some of the Standards on the CAP rely, at least in part, on compliance with this Standard.

Standard 115.52: Exhaustion of administrative remedies

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

115.52 (a)

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

115.52 (b)

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

115.52 (c)

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

115.52 (d)

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

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

115.52 (e)

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

115.52 (f)

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

115.52 (g)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

The agency has an administrative procedure for dealing with inmate grievances regarding sexual abuse. Agency policy or procedure allows an inmate to submit a grievance regarding an allegation of sexual abuse at any time, regardless of when the incident is alleged to have occurred. Agency policy does not require an inmate to use an informal grievance process, or otherwise to attempt to resolve with staff, an alleged incident of sexual abuse. Agency policy and procedure allow an inmate to submit a grievance alleging sexual abuse without submitting it to the staff member who is the subject of the complaint. Agency policy and procedure require that an inmate grievance alleging sexual abuse not be referred to the staff member who is the subject of the complaint. However, some provisions of this Standard were not explicitly addressed in policy, and the agency already had a plan to address this. In addition, some of the problems identified regarding investigations also applied to the grievance process.

Corrective Action: The policy was reviewed and revised to meet the PREA requirements for this Standard. Current procedures on record-keeping and documenting were reviewed and updated to meet the revised policy. The updated policy was uploaded to PowerDMS, MDC's policy management software. Staff were required to acknowledge they have read and understood the policy in PowerDMS by an electronic signature. A report from PowerDMS was provided to show compliance. An update was made in the Inmate Handbook to educate inmates regarding that fact that making third-party reports, or utilizing assistance from family members in the grievance process, is confidential. An updated paper copy of the Handbook is available in each pod, and an announcement was made about the changes to the Inmate Handbook. The updated Inmate Handbook was made available on the inmate kiosk as well.

Analysis: Prior to the Interim Report, the audit team read policy RGT13.09 (8) and H. In addition, the auditor read the February 2018: "Reason for Noncompliance" which stated that, "MDC's policy RGT 13.09 Grievance Procedures does not contain all the needed language to meet all aspects of the PREA

Standard § 115.52. MDC does not currently log or record grievances alleging sexual abuse that involved an extension, because final decision was not reached within the 90 days, and does not inform or document any notification of extensions to inmates due to the lack of protocols.” Current grievances reviewed seem to have many of the same problems identified in the mock audit. Also, as documented regarding Standards 115.53 and 115.54, there was a perception that making third-party reports or utilizing assistance from family members in the grievance process would not be confidential. Administrators believed this could be easily remedied through inmate education during the CAP, because these telephone calls are not monitored in practice. Once the policy changes were made and implemented during the CAP process, and the Inmate Handbook and grievance process updated and verified, the facility had shown full compliance with this Standard.

Finding: The facility is compliant with this Standard.

Standard 115.53: Inmate access to outside confidential support services

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

115.53 (a)

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

115.53 (b)

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

115.53 (c)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

The facility provides inmates with access to outside and facility staff victim advocates for emotional support services related to sexual abuse by: Giving inmates mailing addresses and telephone numbers (including toll-free hotline numbers where available) for local, state, or national victim advocacy or rape crisis organizations. No inmates are detained solely for immigration purposes, so that portion of the Standard does not apply.

Corrective Action: Just prior to the Interim Report being issued, MDC held Advocacy training for staff, including contractor staff, that was provided by the Rape Crisis Center of Central New Mexico. The staff that attended were Social Service Coordinators (case managers), investigators, contract counselors, and discharger planners. The PowerPoint slides and sign-in sheets were provided as verification. Then during the CAP, policies and procedures were clarified so that materials would be provided to inmates up front, before exams and interviews. The related policy updates, and confidentiality training, were provided to all staff, and verification of the training, including understanding the training, was provided.

Analysis: Prior to the Interim Report, interviews were conducted with investigative staff, administrators, and inmates. These interviews and investigative records indicated that advocacy was not offered in a useful way, and that victims believe that, even if advocacy were offered, they would not be able to contact advocates confidentially. For example, advocacy information was sometimes handed to alleged victims after they have sat down for an interview regarding an alleged sexual assault, without them being told they could have an advocate present with them for that interview. The audit team reviewed reporting Posters and the MOU, as well as the agency website and Policy HCA 12.15 F (13). By the end of the CAP, all staff had been retrained on confidentiality, including confidentiality surrounding investigations and advocacy. Social Service Coordinators (case managers), investigators, contract counselors, and discharge planners had received Advocacy, Trauma and PREA training from the Rape Crisis Center, and the auditor had received investigative files that verified the legitimate offer of advocacy in practice.

Finding: The facility is compliant with this Standard.

Standard 115.54: Third-party reporting

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

115.54 (a)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

The agency provides a method to receive third-party reports of inmate sexual abuse or sexual harassment. Third-Party Reporting (115.54) methods are shown in visitation areas, and on the agency website. However, many inmates do not understand the method to be used to make a third-party report that is not recorded or monitored by the facility.

Corrective Action: An update was be made to the Inmate Handbook to educate inmates that third-party reporting is confidential and that the PREA hotlines are not recorded. An updated paper copy of the handbook was made available in each pod, and an announcement was made about the changes to the inmate handbook. The updated Inmate Handbook was made available on the inmate kiosk. Verification was provided to the auditor.

Analysis: Prior to the Interim Report, interviews were conducted with investigative staff, administrators, and inmates. Most inmates interviewed regarding this Standard (all but 2) had a perception that there is no confidentiality in making third-party reports to visitors, or by phone, and that the hotline is recorded by the facility. The audit team reviewed reporting posters and the MOU, as well as the agency website, and reviewed Policy HCA 12.15 F (13). The actions taken during the CAP to inform inmates regarding their confidentiality were sufficient to bring this facility into compliance with this Standard.

Finding: The facility is compliant with this Standard.

OFFICIAL RESPONSE FOLLOWING AN INMATE REPORT

Standard 115.61: Staff and agency reporting duties

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

115.61 (a)

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

115.61 (b)

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

115.61 (c)

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

115.61 (d)

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

115.61 (e)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

The agency requires all staff to report immediately and according to agency policy: Any knowledge, suspicion, or information they receive regarding an incident of sexual abuse or sexual harassment that occurred in a facility, whether or not it is part of the agency; Any retaliation against inmates or staff who reported such an incident; and, Any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation. However, as the audit team read over 20 investigations and listened to audio recordings of investigative interviews, it became evident that the identity of the persons who report sexual abuse or sexual harassment was regularly shared without investigative need. Staff did not always refrain from revealing any information related to a sexual abuse report to anyone other than to the extent necessary, as specified in agency policy, to make treatment, investigation, and other security and management decisions. In addition, policy allowed for some third-party reports to not be investigated. The now former PREA Administrator agreed that not all parts of this Standard were being practiced at the facility.

Corrective Action: The agency's commitment to this Standard in the CAP is as follows: "All staff will be required to review and read the policy concerning confidentiality, and acknowledge they have done these two tasks in PowerDMS. A report showing the acknowledgements by staff will be provided to show compliance. The current policy will be reviewed and revised to ensure all third-party reports are investigated. The updated policy will be uploaded to PowerDMS, MDC's policy management software. Staff will be required to acknowledge they have read and understand the policy in PowerDMS by an electronic signature. A report from PowerDMS will be provided to show compliance." These steps were taken as described. The auditor received verification that all staff acknowledged (and understood) the policy updates and the updated confidentiality training.

Two different trainings provided during the CAP stressed reporting: ". . . all staff need to acknowledge [that] all staff are Mandatory Reporters, which means all staff are required to immediately report any knowledge, suspicion, or information regarding an allegation of sexual abuse, sexual harassment, or retaliation that occurred within a correctional facility."

The confidentiality training stated, in part:

"The reporting party is the person that reported a PREA allegation and in many instances, alleged victim is not the reporting party. The reporting party can be a staff member, contractor, volunteer,

inmate, or any other person that interacts with the inmates at MDC, and when their name is provided to the alleged aggressor it places that person in unsafe situation where they be retaliated against.

Below are some examples on how and how not to inform the alleged aggressor (staff, contractor, volunteer, or inmate) of the allegation against them.

Can say – We received information that you have allegedly sexually abused inmate Smith.

Cannot say – Inmate smith stated that you have sexually assaulted him.

Can say – We received a report that you have been sexually harassing several inmates in the pod.

Cannot say – CO Smith reported that he/she saw you sexually harassing several inmates in the pod.

Can say – A report has been received that you allegedly sexually abused inmate Smith.

Cannot say – Inmate Smith’s family called the facility and reported that you sexually abused inmate Smith.

Also, take this time to remind all staff that Strict Confidentiality shall be maintained throughout all phases of any investigation process including a PREA investigation, and if you are found to have violated confidentiality, you can be disciplined up to and including termination.”

Analysis: Prior to the Interim Report, the audit team reviewed policy PER3.07 (3) page 4, and T, page 12, and (7) (8) (9) (10), in addition to reviewing investigative information and conducting numerous interviews. Upon receiving verification of completion of the CAP as described above, in addition to evidence provided regarding other Standards in the CAP, the auditor had a triangulation of evidence showing compliance with this Standard. This evidence included policy, training, and practice all being in line with this Standard.

Finding: The facility is compliant with this Standard.

Standard 115.62: Agency protection duties

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

115.62 (a)

- When the agency learns that an inmate is subject to a substantial risk of imminent sexual abuse, does it take immediate action to protect the inmate? Yes No

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

When the agency or facility learns that an inmate is subject to a substantial risk of imminent sexual abuse, it takes immediate action to protect the inmate.

Analysis: The audit team reviewed policy PER3.07 I and interviewed random staff, random inmates, and administrators regarding this question. In addition, this topic was covered in at least two separate trainings received by staff. Policy, training, and interviews consistently indicate that the facility is compliant with this Standard.

Finding: The facility has demonstrated compliance with this Standard.

Standard 115.63: Reporting to other confinement facilities

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

115.63 (a)

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

115.63 (b)

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

115.63 (c)

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

115.63 (d)

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

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

- Does Not Meet Standard** (Requires Corrective Action)

Instructions for Overall Compliance Determination Narrative

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The agency has a policy requiring that, upon receiving an allegation that an inmate was sexually abused while confined at another facility, the head of the facility must notify the head of the external facility, or the appropriate office of the agency or facility where sexual abuse is alleged to have occurred. The audit team received contradictory information from the now former PREA Administrator, who stated that it is the person in the role of PREA Administrator who should notify the other facility. No examples of a PREA Administrator taking over this duty were provided. However, during the 30 days after the on-site audit, the audit team were provided examples of the jail administrator performing this function as required.

Analysis: The audit team reviewed policy PER3.07 J (page 5) and example reports. The facility Chief Administrator, the PREA Administrator's supervisor, and 4 other high-ranking administrators assured the audit team that this duty belongs to the Facility Administrator, and that this is the practice.

Finding: The facility has demonstrated compliance with this Standard.

Standard 115.64: Staff first responder duties

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

115.64 (a)

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

actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating, if the abuse occurred within a time period that still allows for the collection of physical evidence? Yes No

115.64 (b)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

The agency had a first responder policy for allegations of sexual abuse at the time of the on-site audit, but the policy seemed to ignore the evidence that might be contained on the aggressor. 8 of 13 front line staff interviewed did not get first responder duties right.

Corrective Action: Policy updates included the First Responder Duties. All staff were retrained on these duties and acknowledged an understanding of the training.

Analysis: The audit team reviewed policy PER3.07 M, First Responder Cards, and a note from the now former PREA Administrator stating that the data required for this Standard was currently being reconciled due to a recent software update and that updates shall be forthcoming. The documentation reviewed during the pre-audit process, in addition to interviews conducted, conjoined with the completion of the CAP which addressed the remaining issue, indicate that facility has demonstrated full compliance with this Standard.

Finding: The facility is compliant with this Standard.

Standard 115.65: Coordinated response

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

115.65 (a)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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The facility has developed a written institutional plan to coordinate actions taken, in response to an incident of sexual abuse, among staff first responders, medical and mental health practitioners, investigators, and facility leadership. Although the CRP was in line with the Standard, the facility did not show that the CRP was consistently followed in practice.

Corrective Action: 5 randomly selected recent investigations were reviewed during the CAP. The documentation indicated that the CRP was followed as appropriate. In addition, the staff received policy updates and additional training regarding advocacy and First Responder duties.

Analysis: Prior to the Interim Report, the audit team reviewed Investigation Protocol, Policy, and Forms. Also reviewed were 20 investigations and related documentation, showing that investigations are not immediately assigned, and that the CRP is not uniformly followed. During the CAP, the auditor reviewed an additional 5 investigations, along with additional training and policy updates.

Finding: The facility has demonstrated compliance with this Standard.

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

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

115.66 (a)

- Are both the agency and any other governmental entities responsible for collective bargaining on the agency's behalf prohibited from entering into or renewing any collective bargaining agreement or other agreement that limits the agency's ability to remove alleged staff sexual abusers from contact with any inmates pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted? Yes No

115.66 (b)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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The agency's collective bargaining agreement does not interfere with the ability to protect inmates from contact with abusers.

Analysis: The audit team reviewed the union Contract, reviewed agency policies, and conducted interviews with administrators.

Finding: The agency is compliant with this Standard.

Standard 115.67: Agency protection against retaliation

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

115.67 (a)

- Has the agency established a policy to protect all inmates and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other inmates or staff? Yes No

- Has the agency designated which staff members or departments are charged with monitoring retaliation? Yes No

115.67 (b)

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

115.67 (c)

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

- Does the agency continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need? Yes No

115.67 (d)

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

115.67 (e)

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

115.67 (f)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

At the time of the Interim Report, the agency had a policy to protect all inmates and staff who report sexual abuse or sexual harassment, or who cooperate with sexual abuse or sexual harassment investigations, from retaliation by other inmates or staff. However, the now former PREA Administrator stipulated that they had not yet reached full compliance with this Standard in practice.

Corrective Action: Full retaliation monitoring was implemented during the CAP, and 5 files were randomly selected and were provided for review. These files contained documentation showing verification of practice.

Analysis: Prior to the Interim Report, the audit team reviewed Policy 3.07 S and read investigations. Also, interviews were conducted with administrators, as well as with inmates who were alleged victims; but little evidence was found of retaliation monitoring conducted as per the requirements of this Standard, especially regarding staff. Retaliation policies and forms were reviewed and updated during

the CAP as the practice of this monitoring was incorporated into standard practice and accountability systems were implemented to assure continued compliance. This, and verification of practice in 5 randomly selected files, combined to demonstrate compliance.

Finding: The facility is compliant with this Standard.

Standard 115.68: Post-allegation protective custody

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

115.68 (a)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

The agency has a policy prohibiting the placement of inmates who allege to have suffered sexual abuse in involuntary segregated housing, unless an assessment of all available alternatives has been made, and a determination has been made that there are no available alternative means of separation from likely abusers.

Analysis: The audit team reviewed policy ICL17.00 6-10, interviewed inmates who have been in protective custody, and interviewed inmates who have been alleged victims. In the 12 months prior to the PAQ, no inmate who was alleged to have suffered sexual abuse was assigned to involuntary segregated housing for protection. If an involuntary segregated housing assignment is made, the facility affords each such inmate regular reviews to determine whether there is a continuing need for separation from the general population, and it documents these reviews.

Finding: The facility has shown compliance with this Standard.

INVESTIGATIONS

Standard 115.71: Criminal and administrative agency investigations

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

115.71 (a)

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

115.71 (b)

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

115.71 (c)

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

115.71 (d)

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

115.71 (e)

- Do agency investigators assess the credibility of an alleged victim, suspect, or witness on an individual basis and not on the basis of that individual's status as inmate or staff? Yes No

- Does the agency investigate allegations of sexual abuse without requiring an inmate who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding? Yes No

115.71 (f)

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

115.71 (g)

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

115.71 (h)

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

115.71 (i)

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

115.71 (j)

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

115.71 (k)

- Auditor is not required to audit this provision.

115.71 (l)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

Although some investigations came close to full compliance with this Standard, most investigations reviewed prior to the Interim Report failed to meet all provisions of this Standard. Some investigative work was done by staff not trained to perform sexual abuse investigations; some allegations were not investigated in a timely manner; some were not investigated at all; and some were incomplete. The now former PREA Administrator stated, during a 02-01-2019 phone call, that the facility was “totally” non-compliant with the promptness requirement.

Corrective Action: 5 investigations were selected from a list of investigations completed after the Interim Report. Each of these investigations were reviewed and found to comply with all applicable provisions of this Standard.

Analysis: Prior to the Interim Report, the auditor reviewed 20 investigations and policies PER3.07 and PER3.35. 7 inmates were interviewed by the auditor, each of whom had either been identified as an alleged victim or had been interviewed as part of a sexual abuse investigation at MDC. All 7 of these inmates answered questions in a way that indicated that investigative protocols were not fully followed. The CAP included corrective actions for a number of Standards relating to investigations, including additional training for both non-investigative staff and investigators, reviewing and clarifying their duties and protocols. During the CAP, all 5 randomly selected investigations were found to be compliant with this Standard.

Finding: The agency and facility have shown compliance with this Standard.

Standard 115.72: Evidentiary standard for administrative investigations

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

115.72 (a)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

As stated in policy and interviews with administration, as well as the agency investigators, the agency imposes a standard of a "preponderance of the evidence" when determining whether allegations of sexual abuse or sexual harassment are substantiated.

Analysis: Policy PER3.07 10, investigations read, and interviews conducted indicate compliance with this Standard.

Finding: The facility shows compliance with this Standard.

Standard 115.73: Reporting to inmates

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

115.73 (a)

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

115.73 (b)

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

115.73 (c)

- Following an inmate's allegation that a staff member has committed sexual abuse against the inmate, unless the agency has determined that the allegation is unfounded, or unless the inmate has been released from custody, does the agency subsequently inform the inmate whenever: The staff member is no longer posted within the inmate's unit? Yes No

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

115.73 (d)

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

115.73 (e)

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

115.73 (f)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

The agency has a policy requiring that any inmate who makes an allegation that he or she suffered sexual abuse in an agency facility is informed, verbally or in writing, as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded following an investigation by the agency.

Corrective Action: New procedures for reporting to inmates were developed, along with a new form to be used. These were reviewed with the auditor. The investigations randomly selected to verify compliance with 115.71 were also checked for compliance with this Standard and were found to be compliant. Also, another 5 examples of reporting to inmates were provided by the agency.

Analysis: The audit team reviewed an example of reporting and Policy PER3.07X; but the audit team also read a number of investigations that did not appear to contain appropriate reporting as required by this Standard. The interviews with inmates who had been alleged victims, and the documentation reviewed (including audio recordings of investigative interviews), did not indicate full compliance with this Standard. Some reporting was done in such a way that might put the inmate at risk, of retaliation or of violations of confidentiality. The now former PREA Administrator stipulated that the facility was not compliant with this Standard, so this Standard was included in the CAP. The facility complied with the CAP and provided verification of reporting being completed as required.

Finding: The facility has shown compliance with this Standard.

DISCIPLINE

Standard 115.76: Disciplinary sanctions for staff

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

115.76 (a)

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

115.76 (b)

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

115.76 (c)

- Are disciplinary sanctions for violations of agency policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories? Yes No

115.76 (d)

- Are all terminations for violations of agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, reported to: Law enforcement agencies (unless the activity was clearly not criminal)? Yes No
- Are all terminations for violations of agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, reported to: Relevant licensing bodies? Yes No

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

Staff are subject to disciplinary sanctions, up to and including termination, for violating agency sexual abuse or sexual harassment policies. Termination is the presumptive disciplinary sanction for staff who have engaged in sexual abuse. Disciplinary sanctions for violations of agency policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) are 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. 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, are reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies.

Analysis: The audit team reviewed policy PER3.07 U, Examples of Termination and Resignations and related investigative materials. In addition, the audit team interviewed randomly selected staff and supervisors. The now former PREA Administrator provided the name of an employee who had been administratively determined to have violated a policy regarding fraternization when at another job as proof that this, or related Standards, were being violated at MDC. However, a review of the facts indicated that there was no finding of abuse in that case, and that the facility's behavior regarding that

employee was 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.

Finding: The facility has shown compliance with this Standard.

Standard 115.77: Corrective action for contractors and volunteers

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

115.77 (a)

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

115.77 (b)

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

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

Agency policy requires that any contractor or volunteer who engages in sexual abuse be reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies.

Agency policy requires that any contractor or volunteer who engages in sexual abuse be prohibited from contact with inmates.

Analysis: The audit team reviewed Policy PER3.07 u(2); a example of contractor termination; and related documentation. Also, interviews were conducted with a volunteer and contractor; facility administrator, and staff who supervise volunteers.

Finding: The facility is compliant with this Standard.

Standard 115.78: Disciplinary sanctions for inmates

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

115.78 (a)

- Following an administrative finding that an inmate engaged in inmate-on-inmate sexual abuse, or following a criminal finding of guilt for inmate-on-inmate sexual abuse, are inmates subject to disciplinary sanctions pursuant to a formal disciplinary process? Yes No

115.78 (b)

- Are sanctions commensurate with the nature and circumstances of the abuse committed, the inmate's disciplinary history, and the sanctions imposed for comparable offenses by other inmates with similar histories? Yes No

115.78 (c)

- When determining what types of sanction, if any, should be imposed, does the disciplinary process consider whether an inmate's mental disabilities or mental illness contributed to his or her behavior? Yes No

115.78 (d)

- If the facility offers therapy, counseling, or other interventions designed to address and correct underlying reasons or motivations for the abuse, does the facility consider whether to require the offending inmate to participate in such interventions as a condition of access to programming and other benefits? Yes No

115.78 (e)

- Does the agency discipline an inmate for sexual contact with staff only upon a finding that the staff member did not consent to such contact? Yes No

115.78 (f)

- For the purpose of disciplinary action does a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred NOT constitute falsely reporting an

incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation? Yes No

115.78 (g)

- Does the agency always refrain from considering non-coercive sexual activity between inmates to be sexual abuse? (N/A if the agency does not prohibit all sexual activity between inmates.)
 Yes No NA

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

The initial policy review indicated that MDC inmates are only to be subject to disciplinary sanctions pursuant to a formal disciplinary process following an administrative finding, or criminal finding, that the inmate engaged in inmate-on-inmate sexual abuse. The disciplinary process is to consider whether an inmate's mental disabilities or mental illness contributed to his or her behavior when determining what type of sanction, if any, should be imposed. The agency disciplines inmates for sexual conduct with staff only upon finding that the staff member did not consent to such contact. The agency prohibits disciplinary action for a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred, even if an investigation does not establish evidence sufficient to substantiate the allegation. The agency prohibits all sexual activity between inmates, but it does not deem such activity to constitute sexual abuse unless it determines that the activity is coerced. However, the now former PREA Administrator stated that she had the database changed to indicate non-consent in cases where the sexual contact was consensual. Also, the now former PREA Administrator recommended investigation for false reporting in cases that were determined to be unfounded, without regard for whether there was a reasonable belief by the reporting person that the alleged conduct occurred.

Corrective Action: The agency provided proof that policy has been changed and implemented to even more clearly prohibit inmate discipline in cases where there is a reasonable belief by the reporting person that the alleged conduct occurred. Previous instructions regarding these issues have been superseded. The MDC software has been demonstrated to accurately record allegations and investigative findings regarding sexual contact between inmates, whether or not it is alleged, or deemed, to be consensual. Documentation of electronic signatures were provided to show that all staff have acknowledged the policy updates and understand them.

Analysis: Prior to the Interim Report, the audit team reviewed policy PER3.07U (3), materials provided with the PAQ, and emails provided by the now former PREA Administrator. During the CAP the current PREA Administrator provided the Mental Health Input into Inmate Discipline Form (FMDC 007), as well as an example of the form filled out to show it being used in practice. Policy revisions, interviews regarding the database, and duplication of accountability regarding inmate discipline, indicate the agency has fully complied with the CAP and addressed the issues identified in the Interim Report.

Finding: The facility has shown compliance with this Standard.

MEDICAL AND MENTAL CARE

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

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

115.81 (a)

- If the screening pursuant to § 115.41 indicates that a prison inmate has experienced prior sexual victimization, whether it occurred in an institutional setting or in the community, do staff ensure that the inmate is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening? (N/A if the facility is not a prison.)
 Yes No NA

115.81 (b)

- If the screening pursuant to § 115.41 indicates that a prison inmate has previously perpetrated sexual abuse, whether it occurred in an institutional setting or in the community, do staff ensure that the inmate is offered a follow-up meeting with a mental health practitioner within 14 days of the intake screening? (N/A if the facility is not a prison.) Yes No NA

115.81 (c)

- If the screening pursuant to § 115.41 indicates that a jail inmate has experienced prior sexual victimization, whether it occurred in an institutional setting or in the community, do staff ensure that the inmate is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening? Yes No

115.81 (d)

- Is any information related to sexual victimization or abusiveness that occurred in an institutional setting strictly limited to medical and mental health practitioners and other staff as necessary to inform treatment plans and security management decisions, including housing, bed, work,

education, and program assignments, or as otherwise required by Federal, State, or local law?
 Yes No

115.81 (e)

- Do medical and mental health practitioners obtain informed consent from inmates before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the inmate is under the age of 18? Yes No

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

All inmates at MDC who have disclosed any prior sexual victimization during a screening pursuant to §115.41 are offered a follow-up meeting with a medical or mental health practitioner. Information related to sexual victimization or abusiveness that occurred in an institutional setting is, for the most part, strictly limited to medical and mental health practitioners, but information that is considered risk factors for sexual abuse and/or sexual harassment is shared appropriately with administrators who make housing, bed and work decisions, in order to protect inmates as required in Standard 115.41 and 115.42.

Analysis: The auditor reviewed Policy 16.00 (13), investigations, and screenings. Screeners, medical and mental health professionals, administrators, and inmates were interviewed.

Finding: The facility has shown compliance with this Standard.

Standard 115.82: Access to emergency medical and mental health services

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

115.82 (a)

- Do inmate victims of sexual abuse receive timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by

medical and mental health practitioners according to their professional judgment?

Yes No

115.82 (b)

- If no qualified medical or mental health practitioners are on duty at the time a report of recent sexual abuse is made, do security staff first responders take preliminary steps to protect the victim pursuant to § 115.62? Yes No
- Do security staff first responders immediately notify the appropriate medical and mental health practitioners? Yes No

115.82 (c)

- Are inmate victims of sexual abuse offered timely information about and timely access to emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care, where medically appropriate? Yes No

115.82 (d)

- Are treatment services provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident? Yes No

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

Inmate victims of sexual abuse receive timely, unimpeded access to emergency medical treatment and crisis intervention services. The nature and scope of such services are determined by medical and mental health practitioners according to their professional judgment. If no qualified medical or mental health practitioners are on duty at the time a report of recent abuse is made, security staff first responders take preliminary steps to protect the victim pursuant to § 115.62 and immediately notify the appropriate medical and mental health practitioners. Inmate victims of sexual abuse while incarcerated are offered timely information about and timely access to emergency contraception and sexually

transmitted infections prophylaxis, in accordance with professionally accepted standards of care, where medically appropriate. Treatment services are provided to every victim, without financial cost, and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.

Analysis: The audit team reviewed Mental Health Referrals Log; Police Referrals; Investigations; Policies HCA12.15 K; HCA 12.01 (6 and 7); and HCA 16(A) for consistency with this Standard.

Finding: The facility is compliant with this Standard.

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

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

115.83 (a)

- Does the facility offer medical and mental health evaluation and, as appropriate, treatment to all inmates who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility? Yes No

115.83 (b)

- Does the evaluation and treatment of such victims include, as appropriate, follow-up services, treatment plans, and, when necessary, referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody? Yes No

115.83 (c)

- Does the facility provide such victims with medical and mental health services consistent with the community level of care? Yes No

115.83 (d)

- Are inmate victims of sexually abusive vaginal penetration while incarcerated offered pregnancy tests? (N/A if all-male facility.) Yes No NA

115.83 (e)

- If pregnancy results from the conduct described in paragraph § 115.83(d), do such victims receive timely and comprehensive information about and timely access to all lawful pregnancy-related medical services? (N/A if all-male facility.) Yes No NA

115.83 (f)

- Are inmate victims of sexual abuse while incarcerated offered tests for sexually transmitted infections as medically appropriate? Yes No

115.83 (g)

- Are treatment services provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident?
 Yes No

115.83 (h)

- If the facility is a prison, does it attempt to conduct a mental health evaluation of all known inmate-on-inmate abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate by mental health practitioners? (NA if the facility is a jail.)
 Yes No NA

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

MDC offers medical and mental health evaluation and, as appropriate, treatment to all inmates who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility. The evaluation and treatment of such victims includes, 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. The facility provides such victims with medical and mental health services consistent with the community level of care. Inmate victims of sexual abuse while incarcerated are offered tests for sexually transmitted infections as medically appropriate. Treatment services are provided to the victim without financial cost, and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident. The agency facilitates services for inmates who were alleged victims in the community before being incarcerated. MDC strives to provide services in these cases, even when the assaults did not occur in a correctional facility.

Analysis: As required by Policies HCA12.15 K & HCA12.16 page 3, interviews with administrators making decisions regarding the care of inmates, and interviews with inmates who were alleged victims, indicate follow-up care is offered.

Finding: The facility has shown compliance with this Standard.

DATA COLLECTION AND REVIEW

Standard 115.86: Sexual abuse incident reviews

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

115.86 (a)

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

115.86 (b)

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

115.86 (c)

- Does the review team include upper-level management officials, with input from line supervisors, investigators, and medical or mental health practitioners? Yes No

115.86 (d)

- Does the review team: Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse? Yes No
- Does the review team: Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; gang affiliation; or other group dynamics at the facility? Yes No
- Does the review team: Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse? Yes No
- Does the review team: Assess the adequacy of staffing levels in that area during different shifts? Yes No
- Does the review team: Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff? Yes No
- Does the review team: Prepare a report of its findings, including but not necessarily limited to determinations made pursuant to §§ 115.86(d)(1) - (d)(5), and any recommendations for improvement and submit such report to the facility head and PREA compliance manager? Yes No

115.86 (e)

- Does the facility implement the recommendations for improvement, or document its reasons for not doing so? Yes No

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

The facility Chief, PREA Administrator, and facility PREA Compliance Manager, verify that the facility, according to policy, conducts a sexual abuse incident review, at the conclusion of every criminal or administrative sexual abuse investigation, unless the allegation has been determined to be unfounded. According to policy, the facility ordinarily conducts a sexual abuse incident review within 30 days of the conclusion of the criminal or administrative sexual abuse investigation. The sexual abuse incident review team is to include upper-level management officials and allows for input from line supervisors, investigators, and medical or mental health practitioners.

Analysis: The audit team reviewed Policy PER3.07 Y and documentation from a number of Sexual Assault Review Team meetings which appear fully compliant with this Standard.

Finding: The facility is compliant with this Standard.

Standard 115.87: Data collection

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

115.87 (a)

- Does the agency collect accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions? Yes No

115.87 (b)

- Does the agency aggregate the incident-based sexual abuse data at least annually?
 Yes No

115.87 (c)

- Does the incident-based data include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence conducted by the Department of Justice? Yes No

115.87 (d)

- Does the agency maintain, review, and collect data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews? Yes No

115.87 (e)

- Does the agency also obtain incident-based and aggregated data from every private facility with which it contracts for the confinement of its inmates? (N/A if agency does not contract for the confinement of its inmates.) Yes No NA

115.87 (f)

- Does the agency, upon request, provide all such data from the previous calendar year to the Department of Justice no later than June 30? (N/A if DOJ has not requested agency data.) Yes No NA

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

The agency has provided a number of instruments, including the SSV, and has demonstrated a computer application, and appears capable of performing the duties required in this Standard.

Analysis: The auditor reviewed Policy PER 3.07AA, Page 16, and interviewed the PREA Compliance Manager and other administrators, who state that they have implemented and improved data collection systems, so that more data can be collected more reliably than the agency has done in the past. They believe they satisfy the requirements of this Standard, and they can now put the data together in a format that will satisfy Standards 115.88 and 115.89.

Finding: The agency appears to have shown full compliance with this Standard.

Standard 115.88: Data review for corrective action

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

115.88 (a)

- Does the agency review data collected and aggregated pursuant to § 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by: Identifying problem areas? Yes No
- Does the agency review data collected and aggregated pursuant to § 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by: Taking corrective action on an ongoing basis? Yes No
- Does the agency review data collected and aggregated pursuant to § 115.87 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by: Preparing an annual report of its findings and corrective actions for each facility, as well as the agency as a whole? Yes No

115.88 (b)

- Does the agency's annual report include a comparison of the current year's data and corrective actions with those from prior years and provide an assessment of the agency's progress in addressing sexual abuse? Yes No

115.88 (c)

- Is the agency's annual report approved by the agency head and made readily available to the public through its website or, if it does not have one, through other means? Yes No

115.88 (d)

- Does the agency indicate the nature of the material redacted where it redacts specific material from the reports when publication would present a clear and specific threat to the safety and security of a facility? Yes No

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

- Does Not Meet Standard** (Requires Corrective Action)

Instructions for Overall Compliance Determination Narrative

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

At the time of the Interim Report, the agency had not yet completed and issued a report consistent with this Standard.

Corrective Action: The 2017 Annual Report was completed during the CAP and published at <https://www.bernco.gov/metropolitan-detention-center/resources-reports-and-publications-.aspx>

Analysis: Prior to the Interim Report, the audit team reviewed relevant policy in PER 3.07 (g) and reviewed a draft report. During the CAP, the 2017 report was reviewed and found to be as compliant as possible, since data from prior years was difficult to report on. The report acknowledges that, "Due to prior administrations and previous methods of investigating allegations of sexual abuse and sexual harassment, this current administration could not determine or locate the findings of the outlier cases." Otherwise, the report includes the minimum provisions of this Standard.

Finding: The agency is compliant with this Standard.

Standard 115.89: Data storage, publication, and destruction

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

115.89 (a)

- Does the agency ensure that data collected pursuant to § 115.87 are securely retained?
 Yes No

115.89 (b)

- Does the agency make all aggregated sexual abuse data, from facilities under its direct control and private facilities with which it contracts, readily available to the public at least annually through its website or, if it does not have one, through other means? Yes No

115.89 (c)

- Does the agency remove all personal identifiers before making aggregated sexual abuse data publicly available? Yes No

115.89 (d)

- Does the agency maintain sexual abuse data collected pursuant to § 115.87 for at least 10 years after the date of the initial collection, unless Federal, State, or local law requires otherwise? Yes No

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

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Corrective Action: The report was completed and published at <https://www.bernco.gov/metropolitan-detention-center/resources-reports-and-publications-.aspx>

Analysis: Prior to the Interim Report, the audit team reviewed relevant policy in PER 3.07 (g) and reviewed a draft report. During the CAP, the 2017 report was reviewed and found to be as compliant as possible, since data from prior years was difficult to report on. The report acknowledges that, "Due to prior administrations and previous methods of investigating allegations of sexual abuse and sexual harassment, this current administration could not determine or locate the findings of the outlier cases."

Finding: The agency is compliant with this Standard.

AUDITING AND CORRECTIVE ACTION

Standard 115.401: Frequency and scope of audits

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

115.401 (a)

- During the prior three-year audit period, did the agency ensure that each facility operated by the agency, or by a private organization on behalf of the agency, was audited at least once? (*Note: The response here is purely informational. A "no" response does not impact overall compliance with this standard.*) Yes No

115.401 (b)

- Is this the first year of the current audit cycle? (*Note: a "no" response does not impact overall compliance with this standard.*) Yes No
- If this is the second year of the current audit cycle, did the agency ensure that at least one-third of each facility type operated by the agency, or by a private organization on behalf of the agency, was audited during the first year of the current audit cycle? (N/A if this is **not** the *second* year of the current audit cycle.) Yes No NA
- If this is the third year of the current audit cycle, did the agency ensure that at least two-thirds of each facility type operated by the agency, or by a private organization on behalf of the agency, were audited during the first two years of the current audit cycle? (N/A if this is **not** the *third* year of the current audit cycle.) Yes No NA

115.401 (h)

- Did the auditor have access to, and the ability to observe, all areas of the audited facility? Yes No

115.401 (i)

- Was the auditor permitted to request and receive copies of any relevant documents (including electronically stored information)? Yes No

115.401 (m)

- Was the auditor permitted to conduct private interviews with inmates, residents, and detainees? Yes No

115.401 (n)

- Were inmates permitted to send confidential information or correspondence to the auditor in the same manner as if they were communicating with legal counsel? Yes No

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)

Does Not Meet Standard (Requires Corrective Action)

Instructions for Overall Compliance Determination Narrative

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

This Final Report is written in the first year of the third audit cycle. However, the guidance provided by the PREA Resource Center requires this audit to be counted in the third year of the second audit cycle. The guidance, in the form of a Frequently Asked Question (FAQ) is found at <https://www.prearesourcecenter.org/frequently-asked-questions>. It states, "Starting on August 20, 2016, which is the first day of the first year of the second three year audit cycle, for the purpose of the PREA standards, the audit is considered complete upon issuance of the initial audit report or 45 days after the conclusion of the auditor's on-site visit to the facility, whichever one comes first." The initial audit report was issued 03-14-2019. The successful completion of this audit brings the facility into compliance with the requirement to have the facility audited during the second audit cycle, although the audit should have been completed during the first year of the audit cycle.

Corrective Action: The Interim Report indicated non-compliance with this Standard since MDC had not been previously audited as required. Also, the Interim Report documented that the agency had not provided all the required information in a timely manner during the Pre-Audit process, although the information was provided later, and all was provided before the end of the 30 days after the on-site audit. Successfully completing the audit brings the agency into temporary compliance with this Standard. Since the agency is required to have an audit completed by August 20, 2020, pre-audit work should begin very soon, so that required information can be submitted in a timely manner for that audit.

Analysis: To put it another way, the agency has come into compliance with the auditing requirement of this Standard, because the audit for the previous audit cycle is now complete, and the audit to be conducted during the current audit cycle is not yet past due. Since MDC is presenting as a one-facility agency, MDC must be audited during the first year of audit cycles. The next audit must be completed by August 20, 2020. Since this analysis has some nuance, I'm including a relevant FAQ here so that the reader will know some of the exact guidance provided by the PREA Resource Center.

An FAQ published April 23, 2014 poses the question: "[W]hat happens if an agency has only one facility but receives no audit by the conclusion of the first year of the first audit cycle (by August 19, 2014)?" Answer: "Because the standards require that an agency have 'at least' one-third of its facilities audited during each year of the three-year audit cycle, an agency with a single facility is required to receive an audit during the initial year of the audit cycle to be compliant as of August 19, 2014. In other words, an agency with a single facility cannot be said to have had at least one third of its facilities audited by August 19, 2014, if it has had no facility audits. However, a single-facility agency could become fully compliant at any point during the remainder of the three-year audit cycle (concluding on August 19, 2016) subject to a successful audit of that facility. . . ." By this logic, MDC is currently compliant since the audit what was concluded by August 19, 2019, has been successfully completed, and the next audit is not due to be concluded until August 19, 2020.

Finding: The facility is in compliance with this Standard.

Standard 115.403: Audit contents and findings

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

115.403 (f)

- The agency has published on its agency website, if it has one, or has otherwise made publicly available, all Final Audit Reports within 90 days of issuance by auditor. The review period is for prior audits completed during the past three years PRECEDING THIS AGENCY AUDIT. In the case of single facility agencies, the auditor shall ensure that the facility's last audit report was published. The pendency of any agency appeal pursuant to 28 C.F.R. § 115.405 does not excuse noncompliance with this provision. (N/A if there have been no Final Audit Reports issued in the past three years, or in the case of single facility agencies that there has never been a Final Audit Report issued.) Yes No NA

Auditor Overall Compliance Determination

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

Instructions for Overall Compliance Determination Narrative

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

Analysis: Since this is the first PREA Audit of the facility, there is no previous Final Audit Report to post.

Finding: The facility is considered compliant with this Standard, unless they fail to make their Final PREA Audit Report publicly available within 90 days of issuance by the auditor.

AUDITOR CERTIFICATION

I certify that:

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

Auditor Instructions:

Type your full name in the text box below for Auditor Signature. This will function as your official electronic signature. Auditors must deliver their final report to the PREA Resource Center as a searchable PDF format to ensure accessibility to people with disabilities. Save this report document into a PDF format prior to submission.¹ Auditors are not permitted to submit audit reports that have been scanned.² See the PREA Auditor Handbook for a full discussion of audit report formatting requirements.

D. Will Weir
Auditor Signature

10-07-2019
Date

¹ See additional instructions here: <https://support.office.com/en-us/article/Save-or-convert-to-PDF-d85416c5-7d77-4fd6-a216-6f4bf7c7c110>.

² See *PREA Auditor Handbook*, Version 1.0, August 2017; Pages 68-69.