

PREA AUDIT REPORT Interim Final

ADULT PRISONS & JAILS

Date of report: 2/10/17

Auditor Information			
Auditor name: Talia Huff			
Address: Po Box 31 McPherson, KS 67460			
Email: talia360cc@gmail.com			
Telephone number: 785-766-2002			
Date of facility visit: 11/16-11/18/16			
Facility Information			
Facility name: Missouri River Correctional Center			
Facility physical address: 1800 48th Avenue SW Bismarck, ND 58506			
Facility mailing address: <i>(if different from above)</i> Click here to enter text.			
Facility telephone number: 701-328-9696			
The facility is:	<input type="checkbox"/> Federal	<input checked="" type="checkbox"/> State	<input type="checkbox"/> County
	<input type="checkbox"/> Military	<input type="checkbox"/> Municipal	<input type="checkbox"/> Private for profit
	<input type="checkbox"/> Private not for profit		
Facility type:	<input checked="" type="checkbox"/> Prison	<input type="checkbox"/> Jail	
Name of facility's Chief Executive Officer: James Sayler			
Number of staff assigned to the facility in the last 12 months: 48.83; 8/1/15-7/31/16			
Designed facility capacity: 191			
Current population of facility: 189			
Facility security levels/inmate custody levels: minimum			
Age range of the population: Age 20-79; As of 8/1/2016			
Name of PREA Compliance Manager: Joseph Joyce		Title: Deputy Warden/PREA Compliance Manager	
Email address: jrjoyce@nd.gov		Telephone number: 701-226-4872	
Agency Information			
Name of agency: North Dakota Department of Corrections and Rehabilitation			
Governing authority or parent agency: <i>(if applicable)</i> Click here to enter text.			
Physical address: 3100 Railroad Avenue Bismarck, ND 58506			
Mailing address: <i>(if different from above)</i> Click here to enter text.			
Telephone number: 701-328-6100			
Agency Chief Executive Officer			
Name: Leann Bertsch		Title: Director of DOCR	
Email address: lebertsc@nd.gov		Telephone number: 701-328-6616	
Agency-Wide PREA Coordinator			
Name: Steve Engen		Title: Director of Staff Development and Facility Inspections	
Email address: sengen@nd.gov		Telephone number: 701-328-6652	

AUDIT FINDINGS

NARRATIVE

A PREA audit was conducted of the Missouri River Correctional Center (MRCC) on November 16-18, 2016. MRCC is one of 3 prisons operated by the North Dakota Department of Corrections and Rehabilitation (NDDOCR). This audit was led by certified PREA auditor Talia Huff, of 360 Correctional Consulting, LLC. This is the second PREA audit conducted at MRCC; both conducted by the same auditor.

At least six weeks prior to the audit, MRCC posted an Auditor Notice provided by the auditor and posted in living units, common areas, staff break rooms, and bulletin boards. No inmate letters were received by the auditor, despite Auditor Notices being abundantly posted around the facility, which was noted during the site review.

Documentation was provided prior to the audit in a very organized fashion, to include the Pre-Audit Questionnaire and standard-by-standard files containing supporting documentation. Correspondence with the PREA Coordinator occurred throughout the pre-audit phase, the auditor submitted a tentative audit schedule prior to arrival, and the onsite audit began Wednesday November 16, 2016. An in-brief was held with the PREA team at MRCC including a representative from the community-based advocate organization. A brief discussion was held regarding the PREA audit process and methodology as well as other audit and facility logistics and among those in attendance was Steve Engen, PREA Coordinator; James Sayler, Warden; and Joseph Joyce, Deputy Warden/PREA Compliance Manager. Following the in-brief, the PREA team accompanied the auditor through the site review. All areas of the facility; each building and all the facility grounds were observed. PREA signs, Coordinated Response signs, and Auditor Notices were abundantly around the facility. Inmates were moving about; going to jobs, programs, recreation, education, etc. Opposite gender announcements were made throughout the site review.

The auditor obtained staff and inmate rosters with which to select random staff and inmates to interview. The staff selected were from varying dorms, shifts, and rank as well as specialized staff, non-uniform staff, and a volunteer staff. Interviews were conducted with specialized staff which included administrative staff and leadership as well as other specialized staff that perform specific PREA-relevant duties such as medical and mental health, case managers, agency contract administrator, and human resources. Inmates were chosen at random from each dorm as well as applicable targeted inmate interviews. There were no transgender or intersex inmates identified by staff or observed by the auditor. Overwhelmingly, staff and inmates could articulate what PREA is, how to report and respond, and inmate's rights to be free from sexual abuse and sexual harassment. Inmates appeared to have trust and confidence in the staff and reporting process. The number of reports of sexual abuse or sexual harassment was low. Knowledge of and investment in the implementation of PREA was evident from agency and facility leadership and reflected from the top down.

DESCRIPTION OF FACILITY CHARACTERISTICS

Missouri River Correctional Center (MRCC) is a 13-dorm facility located south of Bismarck, North Dakota. MRCC was constructed and opened in 1992 and sits along the Missouri River. No fences surround the rural property. The population of MRCC at the time of this audit was 189 with a potential capacity of 191. This reflects an increase in capacity and population since the first PREA audit in which the population was 151. The increase in population was due to the addition of a temporary housing unit (THU) located adjacent to the main building that houses the rest of the dorms.

Aside from main building and temporary housing addition (THU), there are approximately 20 outer buildings which contain different work industries, maintenance, storage, etc. MRCC houses all minimum-custody male inmates and is conducive for keeping inmates very active while providing treatment, education, and work, as well as release and re-entry planning to prepare inmates for their next step of community re-integration. All inmates are expected to work or be enrolled in full time school during their incarceration. Facility jobs include, kitchen, janitorial,

buildings/grounds, and maintenance.

Prior to admission at MRCC, inmates are thoroughly screened to ensure the appropriateness of their placement. There are a total of 12 working cameras, none of which were viewing into the living units. There have been no additional cameras installed since the previous PREA audit.

The mission of the Missouri River Correctional Center is to provide a safe and healthy environment for minimum-custody residents to apply themselves to the task of rehabilitation. This is accomplished by maintaining proper custody, work, education, and treatment programs, encouraging residents to make the needed changes to be law-abiding and successful in society.

SUMMARY OF AUDIT FINDINGS

It was clear that inmate safety was of the utmost importance. An advanced level of PREA awareness and knowledge was expressed from all staff and leadership at MRCC. Investment in sexual safety was exuded from the top down. There is policy and practice in place at this agency that were serve as a good example for other organizations. At the time of the Interim Report, twenty-seven (27) standards were met. Thirteen (13) standards were exceeded. Two (2) standards were not applicable. One (1) standard was not met; 115.41.

By 2/10/17, all standards were satisfied and MRCC achieved full compliance with the PREA standards. Ultimately, seventeen (17) standards were exceeded. Twenty-four (24) standards were met. Two (2) standards were not applicable. Zero (0) standard was not met.

Number of standards exceeded: 17

Number of standards met: 24

Number of standards not met: 0

Number of standards not applicable: 2

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

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

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

In order to make my determination, I reviewed the following policies and other documentation:

- PREA Policy 3C-4
- Organizational Chart

Interviews, Document and Site Review:

NDDOCR and MRCC has a zero tolerance policy toward all forms of resident sexual abuse and sexual harassment, which is outlined in their PREA Policy 3C-4. The PREA Policy outlines the agency's approach to preventing, detecting, and responding to sexual abuse and sexual harassment and includes such definitions that are congruent with the PREA standards and includes a description of agency strategies and responses to reduce and prevent sexual abuse and sexual harassment of inmates. This policy incorporates requirements of the PREA standards and also agency and facility methods of compliance. Beyond language in policy, MRCC appears to have a culture that also exudes zero tolerance.

All interviews with staff, inmates, and specialized staff affirm the zero tolerance policy and measures of prevention, detection, and response strategies.

NDDOCR has appointed an upper-level PREA Coordinator who also serves in the position of Director of Staff Development and Facility Inspections; Steve Engen. The auditor reviewed the agency organizational chart, which listed the PREA Coordinator (PC) position. Steve Engen, as the PC, reported that he has sufficient time and has authority to develop and oversee agency PREA compliance efforts. The PREA Coordinator reports directly to the Director/Agency Head Leann Bertsch. Interviews with the Director and PC revealed that PREA compliance efforts are a priority. Each facility under the DOCR has a designated PREA Compliance Manager (PCM). At MRCC, the PCM is the Deputy Warden; Joseph Joyce. Due to the low volume of sexual abuse and sexual harassment allegations, Mr. Joyce reported that he has sufficient time to oversee facility PREA compliance. As Deputy Warden he has sufficient authority to do so.

Corrective Action:

None.

Standard 115.12 Contracting with other entities for the confinement of inmates

- Exceeds Standard (substantially exceeds requirement of standard)

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

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

In order to make my determination, I reviewed the following policies and other documentation:

- PREA Policy 3C-4
- Contracts for confinement (4)

Interviews, Document and Site Review:

The agency does contract for the confinement of inmates. The PREA Policy 3C-4 contains the requirements of this standard. The auditor was provided all contracts for review and also interviewed the Agency Contract Administrator, located at the central office. The auditor reviewed contracts with the following: The Center Inc., Bismarck Transitional Center, Lake Region Residential Reentry Center, and Tompkins Rehabilitation Center. Each of the contracts includes the following language (as provision #6):

The CONTRACTOR shall comply with the Prison Rape Elimination Act of 2003 ("PREA"), 42 U.S.C. § 15601 et. seq., and all applicable PREA Standards and DOCR Adult Services Policies related to PREA for the prevention, detection, monitoring, investigation, and eradication of any form of sexual abuse within CONTRACTOR facilities, programs, or offices, whether owned, operated or contracted. This includes the education and training of staff, education for offenders, conducting investigations, reporting incidents to the DOCR, compiling incident data and aggregate data, and providing incident and aggregate data to DOCR on an annual basis. The CONTRACTOR acknowledges that, in addition to its self-monitoring requirements, DOCR will conduct announced or unannounced compliance monitoring, including on-site monitoring. Failure to comply with PREA and applicable PREA Standards and DOCR Policies may result in termination of the contract.

Discussion with the Agency Contract Administrator revealed that he was very knowledgeable about the PREA standards and their obligations thereof, as the contracting agency. All the contracted placements have undergone PREA audits and the agency has obtained and reviewed those audit reports. As seen in the language above, the agency conducts announced and unannounced compliance monitoring, which was also articulated by the Agency Contract Administrator. The auditor learned that the agency has the FACTS system, which was developed in-house for monitoring purposes; it guides the onsite monitoring process and when monitoring is required. It is used for monitoring many things; one being PREA. The FACTS system, advanced knowledge and monitoring with announced and unannounced compliance monitoring exceeds the standard.

Corrective Action:

None.

Standard 115.13 Supervision and monitoring

- Exceeds Standard (substantially exceeds requirement of standard)

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

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

In order to make my determination, I reviewed the following policies and other documentation:

- PREA Policy 3C-4
- Staffing Policy 1C-5
- MRCC Staffing Plan
- MRCC Staffing Plan Analysis
- Staffing Plan Memo
- MRCC Staffing Plan Deviation Form
- Supervisor Rounds

Interviews, Document and Site Review:

NDDOCR and MRCC has developed, implemented, and documented a staffing plan that provides for adequate levels supervision and MRCC makes its best effort to comply with it. The Staffing Plan document cites minimum staffing levels during different times of the day shift as well as the night shift. It addresses the use of video monitoring, which is limited at MRCC. The document cites position responsibilities of the Captain, Sergeant, Control Officer, Driver, Rover Officer, and Outdoor Security. Reduction of operational services is then outlined, in the event of staff shortage. MRCC then has a Staffing Plan Deviation Form for documenting deviations (reason for deviation, number of staff, and efforts to prevent the deviation).

The average daily number of residents was 161 and the staffing plan was predicated on 161 residents. The auditor was provided with documentation of their staffing plan, through a lens of sexual safety, which included consideration of the 11 required elements of this provision.

It was articulated in interviews with the PREA Compliance Manager and PREA Coordinator there were no deviations from the staffing plan, which is also what was reported on the Pre-Audit Questionnaire. A Staffing Plan Memo from the PCM/Deputy Warden was also provided which noted that no deviations had occurred throughout the review period. Auditor observations supported that the facility maintains the staffing plan and adequate staffing levels and that there were no deviations.

MRCC demonstrated policy and practice of annual staffing plan reviews, which was also articulated by the Warden, PREA Compliance Manager, and PREA Coordinator in interviews and discussions. Staffing plan review documents, the MRCC Staffing Analysis, were provided for auditor review. This appears to be an institutionalized practice as evidenced by supporting documentation of the annual reviews from previous years as well. The reviews are signed by the PREA Coordinator.

The policy and practice of unannounced rounds is well institutionalized at MRCC. The PREA Policy 3C-4 on page 8 asserts the way this is put into practice: that they are conducted on all shifts by intermediate or high level staff and documented in the ELITE system as “Supervisors Round.” Documentation of these Supervisors Rounds were provided for auditor review and revealed that these were routinely and consistently conducted as set forth in policy.

In addition, it was consistently reported during staff interviews that supervisors conduct these rounds.

Corrective Action:

None.

Standard 115.14 Youthful inmates

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

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

In order to make my determination, I reviewed the following policies and other documentation:

- PREA Policy 3C-4
- Directive 4B-5

Interviews, Document and Site Review:

This standard is not applicable. Neither MRCC nor the agency houses youthful inmates, as evidenced by PREA Policy 3C-4 and the Directive 4B-5. Any inmate under the age of 18 is placed in the North Dakota Youth Correctional Center.

Standard 115.15 Limits to cross-gender viewing and searches

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

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

In order to make my determination, I reviewed the following policies and other documentation:

- PREA Policy 3C-4
- Policy 3A-6 Control of Contraband
- Body Searches Lesson Plan
- Online Searches curriculum

Interviews, Document and Site Review:

PREA Policy 3C-4 outlines each provision of this standard beginning on page 8. It states there are no cross-gender strip searches or any visual body cavity searches except in exigent circumstances (“exigent circumstance” is defined per the PREA standards). 3C-4 asserts that staff will document any cross gender strip or body cavity searches in the electronic log. There were no instances of such to document. Since there are no female inmates at MRCC, provision (b) is not applicable.

Policy and practice at MRCC enables inmates to shower and perform bodily functions without being viewed by staff of the opposite gender and also requires opposite-gender staff to announce their presence. There are separate shower stalls and shower curtains. There is an upper level/tier that can view into part of the bathroom, however, the shower curtains prevent viewing of an inmate unless an inmate chooses to exit the shower unclothed. The auditor learned that an “all genders” announcement is routinely made at the beginning of each shift and while this practice does not, in itself, satisfy the requirements of this standard, the auditor gathered that when the status quo of the officers change, a “female on the unit” announcement is made. When non-uniform staff come onto a unit or when a female officer comes onto a unit where there was no female officer, the “female” announcement is made. Staff and inmate interviews corroborated this and inmates reported that staff are respectful, ensuring they have adequate privacy for those functions. Policy 3C-4 mandates that “female on the floor” will be announced prior to entering any area where an inmate is in a state of undress or using the toilet and it mandates this announcement to be documented in the ELITE system.

In addition, all staff consistently reported that a transgender or intersex inmate could not be searched for the sole purpose of determining their genital status. They further articulated that information could be obtained by conversation with the inmate, looking in records, and/or through medical. This language is also in policy and policy also states, “During the PREA Intake Screening interview with a transgender or intersex inmate, staff will ask the inmate if they prefer to be searched by a male or female officer. This information will be recorded in alerts in ELITE.”

Officers receive training on conducting searches on an annual basis and the facility reported that 100% of security staff had received the training. Part of that training consists of educating staff about the limits to viewing and searches pursuant to this standard as well as conducting cross gender pat searches and searches of transgender or intersex inmates. Staff consistently reported this through interviews and were able to articulate the content. The auditor was provided curricula for review and verification.

Documentation efforts, staff’s advanced understanding and ability to articulate this standard, and outlining of specific means of compliance in policy exceed this standard.

Corrective Action:

None.

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

- Exceeds Standard (substantially exceeds requirement of standard)

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

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

In order to make my determination, I reviewed the following policies and other documentation:

- PREA Policy 3C-4
- NDDOCR Inmate PREA Training Powerpoint and lesson plan
- Disability Memo
- Interpreter Contract and invoice

Interviews, Document and Site Review:

MRCC provides, as necessary, for disabled and LEP (limited English proficient) inmates to benefit from efforts to prevent, detect, and respond to sexual abuse and sexual harassment. Policy 3C-4 very clearly outlines how this shall be accomplished, on page 9 as follows:

1.) Interpreter services for the deaf, blind or hard of hearing inmates, and Non-English speaking inmates.

a.) 1-877-650-8027

b.) Account Number: 9823

c.) Your Full Name: Employee Name

d.) Department Number: NDSP 530.0, JRCC 530.1-10, MRCC 530.1-20, PP 530.3

e.) For additional information see, appendix A.

2.) Inmates who have intellectual, psychiatric, or speech disabilities will review materials with staff to ensure comprehension.

PREA material is provided in written form in the Inmate Handbook, as well as in a PowerPoint that is presented to inmates. The Powerpoint is one hour long and the lesson plan guides the instructor through all relevant points. There is audio available for blind inmates and subtitles for deaf inmates. If the need arises, staff will assist individual inmates to ensure their comprehension of the material. Behavioral health staff are charged with this duty. The agency employs a translation service, with which they have a contract, for any LEP inmates. The auditor reviewed the contract for service and an invoice for when the service was utilized. The inmate handbook is also available in Spanish. It was noted during the tour that PREA signs were posted in English and Spanish.

Policy 3C-4 prohibits the use of inmate interpreters unless doing so compromises inmate safety, performance of first responder duties, or the investigation of the inmate's allegation. Staff articulated this very well throughout interviews.

Policy 3C-4 also refers to DOCR Directive, Limited English Proficiency and DOCR Directive, Case Planning, for additional information.

Corrective Action:

None.

Standard 115.17 Hiring and promotion decisions

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

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In order to make my determination, I reviewed the following policies and other documentation:

- PREA Policy 3C-4
- Policy 1C-11 Criminal Record Check and Fingerprinting
- North Dakota Century Code 12-60-24 - Criminal history record checks
- Internal email from Human Resources
- Personnel Records and file review

Interviews, Document and Site Review:

MRCC and the agency demonstrated well that they prohibit the hiring of anyone who (1) has engaged in sexual abuse of inmates in an institutional setting; (2) has been convicted of engaging in sexual activity in the community facilitated by force, the threat of force, or coercion, or (3) has been civilly or administratively adjudicated to have engaged in such activity. Policies 3C-4 and 1C-11 dictate this practice. PREA Policy 3C-4 addresses each provision of this standard beginning on page 10. Fingerprinting and expectations for criminal records checks are also found in Policy 1C-11 (which also cites this standard as well as other mandates in accordance with state and federal statutes, etc.) and North Dakota Century Code 12-60-24, which states in part, “The bureau of criminal investigation shall provide to each agency, official, or entity listed in this subsection who has requested a statewide and nationwide criminal history record check, the response of the federal bureau of investigation and any statewide criminal history record information that may lawfully be made available under this chapter.”

Human Resources staff was extremely knowledgeable about PREA standards as related to hiring and promoting and explained the process and practice of compliance with this standard and provided a sample of records for auditor review (selected at random by the auditor). The background checks consist of an extensive process that includes: Triple I (national), NCIC, CJIS (state and local), ND courts, Adult Abuse and Child Abuse Registries, sex offender check, and JPay and visitor log checks (for communications with inmates). All employees including volunteers and contractors go through this process and every 5 years every employee has another NCIC check completed. All records that were reviewed contained criminal records checks in accordance with this standard and agency policy. NCIC is conducted again for any staff up for promotion and examples of these records were also provided for review. Applicants are queried about prior institutional employers. In the event an applicant has a prior institutional employer, a release from is sent requesting a response in writing for information regarding their former employee’s

involvement in substantiated sexual abuse or sexual harassment.

Regarding providing information, upon request from another institution, about a former employee's involvement in substantiated allegations of sexual abuse or sexual harassment, HR staff articulated this requirement and provided documentation and the form letter that is used for this purpose. It was reported that the agency has received requests from other institutional employers inquiring about former DOC employees in which a response is approved and sent.

All the procedures in place, demonstration of practice, and the knowledge of the HR staff exceeds this standard.

Corrective Action:

None.

Standard 115.18 Upgrades to facilities and technologies

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

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

In order to make my determination, I reviewed the following policies and other documentation:

- PREA Policy 3C-4
- Documentation of funding request for cameras and additional staffing

Interviews, Document and Site Review:

MRCC has had an expansion since their previous PREA audit consisting of an additional housing unit; THU (Temporary Housing Unit). It sits adjacent but separate from the main building and is temporary leased housing to accommodate an increase in population. Inmates housed in THU must meet eligibility criteria and are well screened prior to placement. There is limited supervision and no camera coverage in THU. Several discussions were had with leadership regarding this level of supervision to which it was explained that the THU is akin to transitional housing in which inmates have been vetted for appropriate placement and are typically approaching release and that officers conduct rounds in the unit. It was also reported that camera coverage was requested but funds were not granted. Documentation was provided to the auditor showing requests for cameras at MRCC as well as additional staff due to the increase in population. It is recommended that cameras be placed in the THU, at minimum, to enhance supervision capabilities.

Corrective Action:

None.

Standard 115.21 Evidence protocol and forensic medical examinations

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

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

In order to make my determination, I reviewed the following policies and other documentation:

- PREA Policy 3C-4
- Preservation of Evidence Policy 3A-12
- North Dakota Sexual Assault Evidence Collection Protocol 5th Edition
- North Dakota Highway Patrol Criminal Investigation Policy 4.3
- North Dakota Century Code 12.1-34-07
- Agreement with AARC for Advocacy and SANE
- AARC MOU
- Correspondence with SANE
- Letter from AARC Director
- Advocate Memo

Interviews, Document and Site Review:

DOCR/MRCC provided ample policy and documents that pertain to and guide compliance with this standard. Policy 3C-4 clearly outlines details of agency/facility compliance; stating that the agency conducts administrative investigations, the Highway Patrol conducts criminal investigations using the North Dakota Sexual Assault Evidence Collection Protocol 5th edition adapted from the Sexual Assault Protocol developed by the United States Department of Justice. This policy also asserts that forensic exams will be completed, without cost, at Sanford Health within 120 hours of the incident. Agency policy 3A-12 further outlines the uniform evidence protocol addressing the preservation of evidence, crime scene security, handling of evidence, location and storage requirements, documentation, disposition of evidence, etc. Through interviews and discussions with staff and leadership, policy and procedure was very well articulated. The auditor reviewed documentation including the North Dakota Sexual Assault Evidence Collection Protocol, which was impressively thorough and detailed and covered the scope of all types of victims (i.e. child, adolescent, male, LBGT – lesbian, gay, bisexual, transgender). The auditor was also provided an MOU between the agency and the Highway Patrol.

In this reporting period, there were no forensic exams warranted. PREA Policy 3C-4 established procedures for victims of sexual abuse to be offered forensic medical exams, outside the facility at no cost. It was evident that the PREA Coordinator has established a good working relationship with the SANE nurse and had substantial communication with her, some of which was provided for review. In the event that an inmate arrives for a forensic exam, a victim advocate is offered to the victim. Policy 3C-4 states, “The DOCR medical staff will contact the designated medical provider, who will initiate the Sexual Assault Response Team and request a victim advocate.”

Since the previous PREA audit, the agency has been able to secure victim services from a community-based
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organization; from the Abused Adult Resource Center (AARC). Funding was obtained to enable a dedicated advocate from AARC, who attended the introduction and exit meetings of this audit as well as the site review of the facility. If an advocate is not available, behavioral health staff will be utilized. The auditor was provided with credentials for the designated behavioral health staff.

The agency has established a good working relationship with the Highway Patrol and receives timely services from them when needed. Auditor was provided with the Highway Patrol's Criminal Investigation Policy 4.3 and, though it is not specific to sexual abuse, it outlines their uniform evidence protocol.

The extensive and detailed policy and documentation, efforts that have been made to collaborate with external stakeholders (Highway Patrol, SANE, AARC), and the articulation of said policy and documentation exceeds this standard.

Corrective Action:

None.

Standard 115.22 Policies to ensure referrals of allegations for investigations

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

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

In order to make my determination, I reviewed the following policies and other documentation:

- PREA Policy 3C-4
- North Dakota Highway Patrol Criminal Investigation Policy 4.3
- Investigative records

Interviews, Document and Site Review:

The PREA Policy 3C-4 addresses this standard and states that all allegations will be investigated, that criminal investigations will be referred to the Highway Patrol, and the PREA investigator will document such referrals.

Interviews with investigators and leadership indicated that PREA investigations are of the utmost importance and are acted upon immediately. It was evident that this was part of the culture of the agency.

There were 12 reports of sexual abuse and sexual harassment reported on the Pre-Audit Questionnaire (PAQ); 7 of which resulted in administrative investigation. There was some discrepancy in other areas of the PAQ, however, such as in 115.73 one criminal/administrative investigation of sexual abuse was reported. This could be because the remaining investigations were of sexual harassment, but that did not match with investigative files. Moreover, the auditor requested additional information and was provided the Investigation Log for review. It was deemed by the

PREA Compliance Manager and by review of the Investigation Log that there was a total of ten allegations, but only six investigations during the time frame prior to the completing the PAQ. The remaining 4 allegations were reported to have not met the “threshold of a PREA incident.” Three of the allegations were involving staff and were unfounded. Three of the allegations were inmate-on-inmate; one substantiated, one unsubstantiated, one unfounded. Upon review of the 4 remaining allegations, the auditor learned that they were investigated, but were determined to have not met the definition of sexual abuse or sexual harassment and thus were not included in the sexual abuse/sexual harassment data.

Corrective Action:

None.

Standard 115.31 Employee training

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

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

In order to make my determination, I reviewed the following policies and other documentation:

- PREA Policy 3C-4
- DOCR Staff PREA Training and Lesson Plan
- Online PREA Training
- Staff PREA Acknowledgement
- In Class PREA Training
- Training Records

Interviews, Document and Site Review:

Agency PREA Policy 3C-4 contains the requirements of this standard including the ten required training elements of 115.31(a). The training content and lesson plan was provided and reviewed by the auditor. The agency has a big emphasis on training and institutes quality training curricula that is generally delivered by the PREA Coordinator or PREA Compliance Manager. The auditor gleaned that staff have an advanced knowledge of the PREA standards and generally how they intersect and effect other areas and departments of the facility. Moreover, staff exuded the zero tolerance policy for sexual abuse and harassment and were able to articulate their responsibilities under the agency policy and in prevention, detection, and response.

A record of PREA training for all staff was provided and training records were selected by the auditor at random and were provided for review. All staff are required to receive new hire PREA training in the classroom and then annual PREA training refreshers online. Employees sign a PREA Training Acknowledgement form for classroom training and there is an electronic acknowledgement for the online training. It states, “By signing this form, I acknowledge that I understand and will comply with all PREA requirements presented during training.”

The content, quality, and emphasis put into ensuring all staff receive and have a rich understanding of the PREA training elements and PREA standards, along with annual PREA training and the post test that is implemented, exceeds this standard.

Corrective Action:

None.

Standard 115.32 Volunteer and contractor training

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

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

In order to make my determination, I reviewed the following policies and other documentation:

- PREA Policy 3C-4
- What to Volunteering in Jails and Prisons training curriculum
- In Class PREA Training
- What You Need to Know video
- PREA Acknowledgement form
- Unescorted Contractors/Volunteers Acknowledgement
- Policy 1G-1 Volunteer Program

Interviews, Document and Site Review:

The agency exceeds the training requirements in this standard and the PREA Policy 3C-4 thoroughly outlines this practice. The PREA Policy charges the facility PREA Compliance Manager with ensuring that all contractors and volunteers are properly trained per policy. Volunteers and contractors are categorized into two groups; escorted and unescorted. Escorted volunteers and contractors review and acknowledge the agency’s zero tolerance policy and how to report such incidents and they sign the PREA Acknowledgement form. Unescorted volunteers and contractors receive classroom PREA training that is generally conducted by the PREA Compliance Manager. This includes watching a video. The training is approved by the PREA Coordinator and is repeated every two years.

The auditor was provided the training and lesson plan used contractors and volunteers. PREA Policy 3C-4 further asserts, “Administrative services of the respective facility shall maintain documentation confirming volunteers and contractors understand the training they have received and document in ELITE each contractor or volunteer has completed the PREA training and signed the acknowledgement form, based on their level of contact with inmates.”

An interview with a volunteer corroborated this to be practice. This was a religious volunteer and had received classroom training delivered by a PREA Compliance Manager. The volunteer reported that she had watched a PREA

video and had discussion related to the zero tolerance policy and expectations of reporting such incidents or suspicions.

The procedure for training contractors and volunteers; using classroom training, signed documentation, and training every two years exceeds this standard.

Corrective Action:

None.

Standard 115.33 Inmate education

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

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

In order to make my determination, I reviewed the following policies and other documentation:

- PREA Policy 3C-4
- PREA postings
- PREA Inmate Video
- PREA Inmate Powerpoint
- Inmate Handbook

Interviews, Document and Site Review:

Prior to arrival at MRCC and pursuant to policy, inmates receive initial PREA orientation at the reception facility NDSP (North Dakota State Penitentiary). Upon transfer to MRCC, they immediately receive an Inmate Handbook and facility rules about sexual abuse and sexual harassment. Once per week, new inmates watch a PREA video and PowerPoint presentation which contains comprehensive education. Inmates and intake staff corroborated this to be practice at MRCC. Inmates had a rich understanding of PREA and knew how to report incidents of sexual abuse and sexual harassment; in fact, they overwhelmingly asserted they would go to staff to report. Inmate interviews were indicative of trust and confidence in the staff and reporting system. There was no evidence that reports were being made and not investigated. All inmates interviewed felt like it was a sexually safe environment.

The auditor reviewed the Inmate Handbook, which contains comprehensive information about sexual abuse and sexual harassment; definitions, methods of report, etc.

The analysis of 115.16 above explains the resources for LEP, blind, deaf, or otherwise disabled inmates including those with limited reading skills. PREA material is provided in written form as well as in a PowerPoint that is presented to inmates. There is audio available for blind inmates and subtitles for deaf inmates. Staff will assist individual inmates to ensure their comprehension of the material. The agency employs a translation service, with which they have a

contract, for LEP inmates. The auditor was provided with an invoice as evidence of the service's use. In addition, the Inmate Handbook is also available in Spanish.

It was noted during the site review that PREA signs were posted in English and Spanish. MRCC has a listing of the location of all PREA posters, which is routinely checked to ensure the signs are still there and visible. Signage was abundant everywhere throughout the facility.

Agency policy prohibits the use inmate interpreters and this was articulated by staff interviews.

Inmates sign an acknowledgement form which is uploaded into the inmate's file electronically in FileNet.

The inmates' advanced knowledge of PREA information and reporting, in addition to the trust and confidence they have in reporting, is indicative of an ideal reporting culture and exceeds this standard. The agency and facility ensure that inmates receive an abundance of PREA information and provide it in many different formats.

Corrective Action:

None.

Standard 115.34 Specialized training: Investigations

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

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

In order to make my determination, I reviewed the following policies and other documentation:

- PREA Policy 3C-4
- Policy 1A-9 Professional Standards Investigations
- NDDOCR PREA Refresher and Overview

Interviews, Document and Site Review:

The auditor feels the agency exceeded this standard. Agency investigators have participated in extensive specialized training delivered by The Moss Group, the online NIC specialized training for investigators, and have developed a comprehensive training curriculum for investigators. Modules of the training curriculum are: the PREA Standards, the Audit Process, Legal Issues and Agency Liability, Prosecutorial Collaboration, First Response Evidence Collection, Forensic Medical Exam, The Role of the Victim Advocate, Agency Culture, and Interviewing Victims of Sexual Abuse. The agency invites investigators from the Highway Patrol (responsible for criminal investigations) to attend training as well. The agency has built a valuable relationship with the Highway Patrol, which has resulted in the Highway Patrol being very receptive to agency needs and sharing of resources.

The auditor reviewed training materials, which addressed all required training elements of this standard as well as documentation of participation. The investigator at MRCC that was interviewed was very impressive in his articulation of the elements of specialized training and investigative process.

Corrective Action:

None.

Standard 115.35 Specialized training: Medical and mental health care

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

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

In order to make my determination, I reviewed the following policies and other documentation:

- PREA Policy 3C-4
- NIC Certificates of Completion

Interviews, Document and Site Review:

PREA Policy 3C-4 mandates specialized training for medical and behavioral health staff. MRCC employs 4 medical and behavioral health staff and all have completed the respective online NIC course.

Medical staff employed by the agency do not conduct forensic exams. Certificates of completion were provided for review. The auditor interviewed a medical and a behavioral health staff member. Both articulated the elements of the specialized training.

Corrective Action:

None.

Standard 115.41 Screening for risk of victimization and abusiveness

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

Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor’s analysis and reasoning, and the

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

In order to make my determination, I reviewed the following policies and other documentation:

- PREA Policy 3C-4
- Intake/Admission Screening
- PREA Assessment/Reassessment
- Temporary Leave/Transfer Screening form
- PREA Rating Assessment Manual – August 2016
- Mental Health Screening form
- Screening Records

Interviews, Document and Site Review:

Beginning on page 18 of the PREA Policy, it thoroughly outlines the process for screening inmates for victimization and abusiveness. This screening process is also outlined in the PREA Rating Manual, which is used in training all staff that conduct the screening.

Inmates do not direct-admit to MRCC. They are first admitted to the intake facility; North Dakota State Penitentiary (NDSP). At NDSP, all inmates are screened using the Intake/Admission Screening form. The Intake/Admission Screening considers all required elements of provision (d), with the exception of whether an inmate is *perceived* to be LGBT. In accordance with interpretive guidance asserted by the Department of Justice (also found on the FAQ page of the PREA Resource Center website) the screening must account for the inmate’s own identification as well as how the inmate is perceived. The Intake/Admission Screening should consider both of these factors. Within 30 days, all inmates are screened again using the PREA Assessment/Reassessment Screening. Both culminate in a PREA Rating; KV (Known Victim), PV (Potential Victim), UN (Unrestricted), KA (Known Aggressor), or PA (Potential Aggressor). MRCC reported that 472 inmates were screened during the review period and that 472 were reassessed within 30 days.

Immediately upon transfer to MRCC, all inmates are screened again (generally by an intake case manager) using the Temporary Leave/Transfer Screening. The PREA Policy states, “This form is completed upon return from temporary leave and by the receiving facility upon transfer between DOCR facilities. This form is completed with input from the DOCR inmate. If either question on the form is marked as “yes”, activate the facility coordinated response and refer to unit management.”

Having been recently screened at NDSP and assigned a PREA Rating, MRCC completes the abbreviated Temporary Leave/Transfer Screening which accounts for two dynamic factors that could change between facilities. This screening consists of two questions, as follows:

1. Does the inmate have a history of being a victim of predatory or aggressive sexual actions in an institutional setting since the last PREA Assessment?
2. Does the inmate have a history of institutional predatory behavior, including jail, since the last PREA Assessment?

One dynamic factor that is not captured on the Temporary Leave/Transfer Screening is the inmate’s own perception of vulnerability. This factor can change from facility to facility and should be considered when assessing sexual vulnerability upon transfer. A Mental Health Screening form is also completed immediately upon transfer to MRCC, though, it does not account for this dynamic factor either nor trigger a reassessment if needed.

The PREA Assessment/Reassessment Screening is also completed annually during reclassification and upon any triggering event such as involvement in an allegation of sexual abuse or sexual harassment. Case Managers are

responsible for the completion of this, which is entered into ELITE. This practice is set forth in policy and in the PREA Rating Manual. The PREA Assessment/Reassessment Screening form is largely the same as the Intake/Admission Screening, though, it also considers institutional behavior and offenses. Like the Intake/Admission Screening it should for whether an inmate is perceived to be LGBT.

Both the Intake/Admission and Assessment/Reassessment Screenings are objective in that they contain a scoring mechanism that aids inter-rater reliability. In addition, staff receive training and reference the PREA Rating Manual, which also aids in inter-rater reliability. The auditor interviewed staff that conduct the PREA screenings; 2 case managers. The case managers articulated the screening process well and how the screening process then effects housing and placement assignments as well as triggers for reassessment (aside from annual classification review).

As set forth in policy and iterated in interviews with staff that conduct the screening, inmates are not disciplined for refusing to answer questions pursuant to elements (1), (7), (8), or (9) of provision (d).

Screening records were provided at the auditor's request, which all confirmed the process set forth in policy. Many discussions and interviews were had with the PC, PCM, screening staff which revealed a deep understanding of the purpose and process of the screening. The agency does a thorough job of screening, reassessing, and tracking the PREA Ratings of inmates. The system in place including the PREA Rating Alerts, training and the PREA Rating Manual, thorough policy language, and staffs' understanding and ability to articulate the process and purpose of the screening exceeds this standard; once the adjustments are made to the forms.

Corrective Action:

1. On the Intake/Admission Screening and the Assessment/Reassessment, consider both 1) whether the inmate *identifies* as LGBT, and 2) whether the inmate is *perceived* as LGBT.
2. On the Temporary Leave/Transfer Screening, account for whether the inmate's feeling of vulnerability has changed.

Update 2/10/17:

1. The auditor was provided with a revised Intake/Admission Screening and PREA Assessment/Reassessment forms. The forms were revised to reflect 1) whether the inmate *identifies* as LGBT, and 2) whether the inmate is *perceived* as LGBT. Documentation of training on this change in policy and practice was provided to the auditor. The documentation went to Unit Managers who were charged with training their staff. The PREA Compliance Managers were then charged with overseeing that this was completed. This change was made agency-wide and implemented on 1/24/17. The auditor was provided with documentation of completed reassessments as of 2/8/17 to verify the implementation of the revision. The system and process of screening inmates was already well institutionalized.
2. The auditor was provided with a revised Temporary Leave/Transfer form, which reflected whether the inmate's feeling of vulnerability has changed. This revised form was implemented on 1/24/17. The auditor was provided with completed forms as of 2/8/17 to verify the implementation of the revision. The system and process of screening inmates was already well institutionalized.

No further corrective action needed.

Standard 115.42 Use of screening information

- Exceeds Standard (substantially exceeds requirement of standard)
- Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)

- Does Not Meet Standard (requires corrective action)

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

In order to make my determination, I reviewed the following policies and other documentation:

- PREA Policy 3C-4
- PREA Rating Assessment Manual
- PREA Alerts
- PREA Intake Admission Screening
- PREA Assessment/Reassessment
- Policy 5A-1 Inmate Work and Correctional Industry Programs

Interviews, Document and Site Review:

PREA Policy 3C-4 asserts that, “Prior to housing and bed assignments, staff will review alerts within ELITE to keep separate inmates that have been identified as potential victims or known victims from known aggressors or potential aggressors.”

MRCC utilizes “PREA Alerts” that are input into the electronic ELITE system in order to ensure the safety of inmates. Upon the completion of the PREA screening, any inmate identified as a potential or known victim or potential or known aggressor has a PREA Alert created. The PREA Alerts are widely and commonly used in daily operations and before placement is determined. The Deputy Warden/PREA Compliance Manager is the primary person involved in the selection and screening process of inmates being considered for placement at MRCC. Due to the nature of the facility (being minimum custody), and as reported to the auditor, inmates having a history of institutional sexual violence would not likely be eligible for placement at MRCC. The auditor was provided a printout of the PREA Alerts generated from iTAG. This list identified all inmates by their PREA rating, which identified most inmates to be Unrestricted (not deemed as high risk or potential risk), approximately one-third as Potential Victims, and 2 as Potential Aggressors. There were no inmates identified as Known Aggressors on the list. This list indicated that those inmates at high risk for victimization were in fact being kept separate from those inmates at high risk for being sexually aggressive.

Upon review of the PREA Rating Manual, it was also noted that “rules” are outlined for housing according to PREA Ratings, as follows:

- A. Known Victims shall be housed only with other Known Victims, Potential Victims, or Unrestricted.*
- B. Potential Victims shall only be housed with other Potential Victims, Unrestricted, or Known Victims.*
- C. Unrestricted can be housed with any: Known Victims, Potential Victims, Unrestricted, Potential Aggressors, or Known Aggressors.*
- D. Potential Aggressors shall either be housed with other, Potential Aggressors Unrestricted or Known Aggressors.*
- E. Known Aggressors shall only be housed with other Known Aggressors, Potential Aggressors, or Unrestricted.*
- *Known Victims and Potential Victims should never be housed with Potential Aggressors or Known Aggressors.*
- F. Known Victims and Potential Victims may participate in programming and work assignments with Known Aggressors and Potential Aggressors as long as there is adequate staff supervision.*

It was evident through staff interviews that individualized determinations are made for inmate safety. The Alert system in ELITE is a key resource for doing so. For the placement and programming of transgender and intersex inmates, PREA Policy 3C-4 provides a detailed procedure for doing so. In deciding male or female facility, as well as housing and programming, a multi-disciplinary team consisting of staff from security, medical, unit management, behavioral health, and administration would make those determinations on a case-by-case basis. It is also mandated that reassessments will be completed at least twice per year by case management staff and documented in the case contact notes. Policy, practice, and staff interviews supported that an inmate's own views would be taken into consideration.

All inmates, including transgender and intersex inmates can shower separately as there are individual showers with curtains.

The site review and reviewing of rosters and PREA ratings and other documentation along with staff and inmate interviews, the auditor concluded that gay, bisexual, or transgender inmates are not housed on a dedicated wing or unit.

In regard to work and program assignments, Policy 5A-1 Inmate Work and Correctional Industry Programs cites general language, as follows:

A unit manager shall chair the Job Placement Committee and coordinate the assignment of inmates with the Chief of Security and work supervisors who will maintain a list of eligible qualified inmates, and assign the inmate to job assignments in their work area. The unit manager will make an effort to assign inmates to jobs appropriate to their aptitude and skills and to maintain the security and operational needs of the institution.

This could be strengthened by ensuring (and/or including such policy language) that risk of sexual victimization and abusiveness be considered when making job and program assignments. The use of the Inmate Employment-Security Risk Assessment and practice that is used at the JRCC facility is a promising practice.

Corrective Action:

None.

Standard 115.43 Protective custody

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

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

In order to make my determination, I reviewed the following policies and other documentation:

- PREA Policy 3C-4

- Segregation Policy 3A-18

Interviews, Document and Site Review:

MRCC does not have the capability to isolate inmates. There are no isolation cells; only dorms. If an allegation is received, the agency has a strong practice of considering isolation only as a last resort. An inmate could be immediately transferred to NDSP if warranted.

PREA Policy contains the language of this standard and, in fact, exceeds the standard in stating, “Every seven days for the first two months and then 30 days thereafter, the Administrative Segregation review team shall afford each inmate a review to determine whether there is a continuing need for separation from the general population.”

Corrective Action:

None.

Standard 115.51 Inmate reporting

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

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

In order to make my determination, I reviewed the following policies and other documentation:

- PREA Policy 3C-4
- PREA signage
- Inmate Handbook
- Highway Patrol MOU and email confirmation
- North Dakota Century Code 12-47.17
- Friends/Family Poster
- Staff Poster

Interviews, Document and Site Review:

Set forth in the PREA Policy 3C-4 and evident in practice, the agency/facility provides multiple avenues of inmate reporting: verbally or in writing to staff; the Highway Patrol form, internal and external hotlines, 3rd party. Inmates were very well versed in their knowledge of multiple reporting methods and were very comfortable in reporting to staff, which seemed to be their first and preferred method of report. This indicated a high level of trust and confidence in reporting to staff. There were no indications from inmate or staff interviews that inmates were reporting but receiving no response. Inmates and staff were aware of who serves as the PREA Coordinator and PREA Compliance Manager, and they reported that they would report to those entities if needed. Staff reported that they accept reports from inmates in writing and from third parties, and that they would treat all reports in the same manner and in accordance with policy.

Inmates have avenues to report external to the agency via the National Sexual Assault hotline and/or to the Highway Patrol (using a specified form available to inmates). This information is posted around the living units and is visible to inmates on an on-going basis. Tour staff and the PREA Coordinator reported that monthly checks are done to ensure that the information is still posted and visible.

Just Detention International is also listed on the PREA poster as a method of external report when this is an avenue of external emotional support, not for reporting, since JDI cannot refer a report back for investigation. It is recommended that the verbiage on the poster be changed to reflect this. This verbiage is also contained in the Inmate Handbook, therefore, it is also recommended that this be clarified in this document as well.

Reporting mechanisms and comprehensive PREA information is also found in the Inmate Handbook. Internal and external avenues of reporting is listed. The PREA Policy lists 5 ways of internal report including the hotline number and the address of the Highway Patrol. The agency has exceeded the standard in providing and conveying the methods of reporting in that it is so abundantly posted and repeatedly conveyed to staff and inmates as well as being available in the Inmate Handbook and being articulated so well by staff and inmates. In addition, the agency has established an MOU with the Highway Patrol for responding to inmate correspondence. The PREA Coordinator also provided the auditor with email confirmation from the HP that the MOU is still in place and effective.

Corrective Action:

None.

Standard 115.52 Exhaustion of administrative remedies

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

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

In order to make my determination, I reviewed the following policies and other documentation:

- PREA Policy 3C-4
- Inmate Handbook
- Written Notification of Extensions

Interviews, Document and Site Review:

DOCR does have administrative procedures to address inmate grievances. Pages 22 & 23 of the PREA Policy 3C-4 cites each provision of this standard and the Inmate Handbook also has information congruent to the policy informing inmates that there is no time limit or informal resolution required for sexual abuse grievances. It contains grievance procedures which specifically outline sexual abuse grievances and emergency grievances.

Grievances are logged and tracked electronically, but MRCC had no sexual abuse grievance or emergency grievances filed during the review period.

Inmate interviews revealed that inmates were clearly aware of the grievance procedures and that it can be used for reporting sexual abuse or sexual harassment. The auditor was not made aware, by inmates, of any sexual abuse grievances that had been filed. MRCC also reported no inmate grievances that resulted in disciplinary actions for filing in bad faith.

Corrective Action:

None.

Standard 115.53 Inmate access to outside confidential support services

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

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

In order to make my determination, I reviewed the following policies and other documentation:

- PREA Policy 3C-4
- Inmate Handbook
- PREA signage
- AARC Agreement
- Email correspondence with AARC

Interviews, Document and Site Review:

PREA Policy 3C-4, page 23-24, outlines inmate access to emotional support services. MRCC has an abundance of PREA signage around the facility. The signage contains mailing addresses and phone numbers for Just Detention International and the National Sexual Assault hotline. Information regarding the level of confidentiality is on the PREA signage; specifying that that Internal hotline is a toll free recorded call, but that the external hotline to the National Sexual Assault hotline is “toll free, not recorded, confidential.”

The agency now has an agreement with a local rape crisis center; the Abused Adult Resource Center (AARC). The Agreement was provided for review as was written correspondence with the local provider. The Agreement states that if an inmate is brought to the local hospital, advocacy would be provided. The agreement does not state that emotional support will be offered after the forensic exam.

A representative from AARC was present during portions of the audit and corroborated the information provided to the auditor. Inmates could receive additional emotional support from a behavioral health staff at the facility or through JDI or the National Sexual Assault hotline.

Inmates are not held at MRCC solely for civil immigration purposes, therefore, information to immigrant services is not applicable.

The efforts to secure services through the local rape crisis center, which entailed securing funds and maintaining a good relationship, along with conveying the 2 other sources of emotional support services exceeds this standard. Having the representative attend a portion of the audit was indicative of the nature of the relationship between the entities.

Corrective Action:

None.

Standard 115.54 Third-party reporting

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

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

In order to make my determination, I reviewed the following policies and other documentation:

- PREA Policy 3C-4
- Family and Friends PREA poster
- Agency website

Interviews, Document and Site Review:

PREA Policy states that the agency publishes third party reporting information on the agency website. Upon review of the website, this was confirmed. In addition, “Family and Friends” PREA signs are posted in the inmate visiting area which contains third party information. These posters are in English as well as Spanish. The posters provide contact information for the Warden, PCM, and PC.

Interviews with staff and inmates revealed an in-depth knowledge about how a person can make a report on someone else’s behalf.

Corrective Action:

None.

Standard 115.61 Staff and agency reporting duties

- Exceeds Standard (substantially exceeds requirement of standard)

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

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

In order to make my determination, I reviewed the following policies and other documentation:

- PREA Policy 3C-4
- Limits to Confidentiality poster

Interviews, Document and Site Review:

PREA Policy 3C-4 outlines that all staff are required to report immediately to their supervisor any knowledge, suspicion, or information regarding instances of sexual harassment or sexual abuse, and any cases of retaliation against staff or inmates who report. This includes any third-party or anonymous reports. The policy also prohibits staff from revealing information about such cases to anyone other than those with a need to know.

All staff interviewed were aware of the facility policy, their duty to report, and of the many ways available to report. Staff were aware that they are obligated to keep information about cases of sexual harassment and sexual abuse confidential. Mental Health and Medical staff interviewed said they informed inmates of their duty to report and the limitations of confidentiality. Inmates are provided with limitations to confidentiality upon intake, and the information is posted as well.

Corrective Action:

None.

Standard 115.62 Agency protection duties

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

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

In order to make my determination, I reviewed the following policies and other documentation:

- PREA Policy 3C-4

Interviews, Document and Site Review:

PREA Policy 3C-4 contains language from this standard. All staff interviewed, as well as the Agency Head, Warden, and Deputy Warden reported they would take immediate action if they learned an inmate was subject to a substantial risk of imminent sexual abuse. Interviews with staff including the Warden, shift supervisor, and the PCM, indicated that sexual safety for inmates is a high priority. At MRCC, that would entail transporting an inmate to NDSP if necessary.

There were no instances of an inmate being at risk of imminent sexual abuse during the reporting period.

Corrective Action:

None.

Standard 115.63 Reporting to other confinement facilities

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

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

In order to make my determination, I reviewed the following policies and other documentation:

- PREA Policy 3C-4
- Risk Management Incident Report form

Interviews, Document and Site Review:

PREA Policy 3C-4 outlines clearly the steps to be taken upon receipt of an allegation that an inmate was sexually abused at another facility, including notifying the facility head where the alleged abuse occurred within 72 hours. It further states that this notification shall be documented using the Risk Management Incident Report form.

An interview with the Agency Head and PREA Compliance Manager revealed that they were fully aware of the requirements set forth by the PREA standards and their policy, though there were no reports made or received during the reporting period. The Warden reported that if such a report was received from another facility, it would be referred immediately to an agency investigator.

Upon review of the Investigation Log provided, it was noted that “referrals from other confinement facilities” are documented and tracked there as well.

Corrective Action:

None.

Standard 115.64 Staff first responder duties

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

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

In order to make my determination, I reviewed the following policies and other documentation:

- PREA Policy 3C-4
- Coordinated Response document

Interviews, Document and Site Review:

PREA Policy 3C-4 does an exceptional job of outlining the duties of first responders, including the expectations for security staff, medical staff, behavioral health staff, the shift supervisor, the investigator, and PCM.

The facility has developed a flow chart, DOCR Coordinated Response, that illustrates what actions are required, and who is responsible to complete each task. Through interviews with security staff and the shift supervisors, it was evident they were well aware of their duties as first responders. Staff understood not just the needed actions, but why the actions were important. It was reiterated by staff that inmate sexual safety is of the utmost importance, and that they have been well trained to ensure victims and perpetrators are separated and kept safe, and to preserve evidence. Documentation that staff were trained on their duties as first responders was provided. The auditor felt like staff knowledge and their ability to articulate first responder duties exceeded this standard. They articulated an advanced knowledge not only of their duties but of other aspects of coordinated response and first responder duties.

Corrective Action:

None.

Standard 115.65 Coordinated response

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

Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet standard. These recommendations

must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

In order to make my determination, I reviewed the following policies and other documentation:

- PREA Policy 3C-4
- Coordinated Response document

Interviews, Document and Site Review:

The DOCR Coordinated Response document was provided for review and is Policy 3C-4 is a one-page handout/poster that outlines immediate response on the floor for first responders, supervisors, medical, mental health, investigators, PCM, and PREA Coordinator. This document was posted around the facility abundantly to be visible and redundant to staff and inmates as well.

The PREA Policy 3C-4 and PREA training lesson plan also outlines the coordinated response. Staff interviews conveyed that the coordinated response is well permeated throughout the facility. The abundant posting of the coordinated response, as well as it being in policy and training, and staff's ability to articulate so well exceeds this standard.

Corrective Action:

None.

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

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

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

In order to make my determination, I reviewed the following policies and other documentation:

- PREA Policy 3C-4
- Collective Bargaining document

Interviews, Document and Site Review:

This standard is not applicable as North Dakota state law does not allow collective bargaining in any fashion. A document stating such was provided for review and was also confirmed through interviews with the Agency Head.

Corrective Action:

None.

Standard 115.67 Agency protection against retaliation

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

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

In order to make my determination, I reviewed the following policies and other documentation:

- PREA Policy 3C-4
- Retaliation log

Interviews, Document and Site Review:

The PREA Policy 3C-4 outlines compliance with this standard and charges the PREA Compliance Manager with the task of monitoring for retaliation. The retaliation language reads as follows:

The DOCR PREA compliance manager at each DOCR facility protects 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. The PREA compliance manager in conjunction with the warden of the facility shall ensure multiple protection measures are available, including 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 that fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations. For at least 90 days following a report of sexual abuse or sexual harassment, the PREA compliance manager shall monitor the conduct and treatment of inmates or staff who reported the sexual abuse or sexual harassment of inmates who were reported to have suffered sexual abuse or sexual harassment to determine if there are changes that may suggest possible retaliation by inmates or staff, and shall act promptly to remedy any such retaliation. Items the facility should monitor include inmate disciplinary reports, housing, or program changes, or negative performance reviews or reassignments of staff. The DOCR shall continue monitoring beyond 90 days if the initial monitoring indicates a continuing need. In the case of inmates, monitoring shall also include monthly status checks documented in case notes in ELITE. If any other individual who cooperates with an investigation expresses a fear of retaliation, the warden shall take appropriate measures to protect that individual against retaliation. DOCR's obligation to monitor terminates if the DOCR determines that the allegation is unfounded.

As noted in the above policy excerpt and observed in practice, MRCC/DOCR exceeds this standard by monitoring retaliation of both sexual abuse and sexual harassment. The auditor reviewed investigative files which contained documentation for monitoring retaliation. The PREA Compliance Manager/Deputy Warden explained that he meets with them periodically, checks ELITE for Incident Reports, housing/job changes. He explained that he inquires directly with the inmate about their feeling of safety; whether they feel they are being targeted, etc. He further stated at the conclusion of the monitoring he notes that and it then accompanies the investigative file.

MRCC reported that no retaliation occurred during the reporting period.

Corrective Action:

None.

Standard 115.68 Post-allegation protective custody

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

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

In order to make my determination, I reviewed the following policies and other documentation:

- PREA Policy 3C-4

Interviews, Document and Site Review:

The PREA Policy 3C-4 addresses this standard, although, there is no segregation available at MRCC. If needed, an inmate could be separated by movement to NDSP without the need to place an inmate into segregation status. Interview with the PCM indicated there were no such moves during the reporting period. As noted in the comments of standard 115.43, staff and leadership exuded a strong practice of only using solation as a very last resort.

Corrective Action:

None.

Standard 115.71 Criminal and administrative agency investigations

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

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

corrective actions taken by the facility.

In order to make my determination, I reviewed the following policies and other documentation:

- PREA Policy 3C-4
- Professional Standards Investigations Policy 1A-9
- Criminal Intelligence and Investigations Policy 1A-27
- Correspondence: Referrals for Criminal Investigations Within the DOCR
- North Dakota Highway Patrol Policy 4.3
- HR correspondence
- Investigative files

Interviews, Document and Site Review:

The auditor received an abundance of documentation outlining practice regarding the conduct of administrative and criminal investigations in the agency. The agency conducts administrative investigations and does have the authority to conduct criminal investigations as well since some personnel and investigators are certified peace officers. The PREA Coordinator provided documentation that, in part, stated:

In the last legislative session HB 1118 amended NDCC 12-59-20 authorizing DOCR Probation and Parole Officers to enforce the law, conduct investigations, and make arrests of violations of law on or within any premises under the control of the DOCR.

This amendment was proposed and passed in order to reduce the calls for service to the NDHP by using our own uniquely trained licensed peace officers to investigate criminal charges on DOCR grounds.

Though DOCR has the authority to conduct criminal investigations, generally the Highway Patrol is called in for criminal investigations; in particular any high profile or sensitive investigations. Investigations are initiated and conducted promptly and thoroughly and investigators at DOCR and the Highway Patrol have been extensively trained on conducting sexual abuse investigations in confinement (see also 115.34). MRCC reported that there were no investigations during the review period referred to an outside agency. The investigator at MRCC that was interviewed was very impressive in his articulation of the elements of specialized training and investigative process. The agency has a good working relationship with the Highway Patrol and the prosecuting attorney which enables communication throughout the investigative process.

It was articulated by policy and practice (in interviews) that substantiated allegations are referred for prosecution. Investigations are documented in a standard format using the Investigative Report form. After completion, each report is reviewed for quality control and revised if needed. It was also articulated by investigative staff, leadership, and informal discussion that the departure of an alleged victim does not allow for the termination of an investigation.

The agency has 36 trained investigators; some of which are located at MRCC and are appropriately assigned on a case-by-case basis. Review of investigative files revealed thorough information in most reports such as the inmates' PREA Rating, current charges, prior PREA incidents, and placement of the inmate once the allegation was received. The auditor recommends that all investigators ensure this information is included. The auditor requested some additional information and clarification on a couple files. While most investigations contained very good documentation, one investigation alleging staff sexual misconduct (date of allegation: 5/13/15) against several staff members lacked some information justifying the unfounded disposition, interviews of each staff member, etc. The auditor gained some clarification from the PREA Coordinator and PREA Compliance Manager, though, it is still noted that the documentation for this investigation should be stronger and perhaps the review process should have caught these gaps.

Corrective Action:

None.

Standard 115.72 Evidentiary standard for administrative investigations

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

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

In order to make my determination, I reviewed the following policies and other documentation:

- PREA Policy 3C-4

Interviews, Document and Site Review:

PREA Policy 3C-4 states, “The DOCR may not impose a standard higher than a preponderance (more than 50 percent) of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated.”

Interviews with staff at all levels knew and understood the evidentiary standard. The investigator that was interviewed also explained the definition of the case dispositions; substantiated, unsubstantiated, and unfounded. Information about the evidentiary standard is also given to inmates during their orientation period at the facility.

Corrective Action:

None.

Standard 115.73 Reporting to inmates

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

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

In order to make my determination, I reviewed the following policies and other documentation:

- PREA Policy 3C-4
- Notice of PREA Investigation Status
- Investigative files

Interviews, Document and Site Review:

The PREA Policy 3C-4 addresses each provision beginning on page 35 and outlines the method of compliance by stating that the PREA Investigator or staff designated by the PREA Investigator will inform the inmate. Then if the Highway Patrol conducts the investigation, the information will be requested in order to inform the inmate. The policy further states that the investigator will deliver the findings in person and will obtain the inmate's signature. The facility provided the Notice of PREA Investigation Status, which is used to document this process.

The auditor reviewed Notice of PREA Investigative Status documentation which was included in investigative files. All investigations reviewed contained the form. Interviews with inmates who had made a report indicated that they were aware of the requirement to be notified, and that they were notified of the outcome of their allegation. All notifications or attempted notifications of the final determination of the allegation are documented and stored in FileNet.

Corrective Action:

None.

Standard 115.76 Disciplinary sanctions for staff

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

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

In order to make my determination, I reviewed the following policies and other documentation:

- PREA Policy 3C-4
- Investigative files
- Investigation Log

Interviews, Document and Site Review:

The PREA Policy 3C-4 cites each provision of this standard, but goes further to state, "Employees shall cooperate fully by providing all pertinent information during the investigation. Failure of an employee to answer any inquiry fully will be grounds for disciplinary action. Employees make not make any attempt to contact that inmate victim from the time the allegation is first made, until the completion of the investigation."

During the review period (from the investigative information provided 1/5/17 on the Investigation Log as opposed to

the information provided on the Pre-Audit Questionnaire), there were 3 investigations involving staff; all of which were deemed unfounded. Therefore, there was no staff discipline issued for violation of the PREA Policy.

Corrective Action:

None.

Standard 115.77 Corrective action for contractors and volunteers

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

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

In order to make my determination, I reviewed the following policies and other documentation:

- PREA Policy 3C-4
- Citizen Involvement and Volunteers Policy 1G-1

Interviews, Document and Site Review:

The PREA Policy 3C-4 states:

Any contractor or volunteer who engages in sexual abuse shall be prohibited from contact with inmates and shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to relevant licensing bodies. The deputy warden shall take appropriate remedial measures, and shall consider whether to prohibit further contact with inmates, in the case of any other violation of DOCR sexual abuse or sexual harassment policies by a contractor or volunteer.

Additionally, Citizen Involvement and Volunteers Policy 1G-1 states:

All DOCR institutions, departments and divisions shall have procedures in place to secure volunteers for involvement in programs which may include service as advisors, faith based interpreters and other similar direct service roles. Directive and expectations shall also govern the recruitment, screening, selection, orientation, training, official registration, identification and supervision of volunteers and interns that allows recruitment from all cultural and socioeconomic parts of the community.

MRCC reported there to be no volunteers during the review period that violated, or were alleged to have violated, the PREA Policy.

Corrective Action:

None.

Standard 115.78 Disciplinary sanctions for inmates

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

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

In order to make my determination, I reviewed the following policies and other documentation:

- PREA Policy 3C-4
- Inmate Handbook

Interviews, Document and Site Review:

The PREA Policy 3C-4 cites each provision of this standard and asserts that behavioral health staff shall consider, as a condition of access to programming or other benefits, whether to require the offending inmate to participate in therapy, counseling or other interventions designed to address and correct underlying reasons or motivations for the abuse.

The auditor learned that inmates are subject to discipline following a formal process and discipline committee. This process is thoroughly outlined in the Inmate Handbook as well and appears to commensurate with the nature of the abuse committed. The Inmate Handbook prohibits all sexual activity between inmates.

Interviews with staff indicated that sanctions are determined based on the severity of the violation and the inmate’s disciplinary history. In cases where the inmate has mental health issues, his disability is considered in determining his penalty.

The auditor did not find evidence of inmates being disciplined for allegations that were made in good faith.

Corrective Action:

None.

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

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

Auditor discussion, including the evidence relied upon in making the compliance or non-compliance determination, the auditor’s analysis and reasoning, and the

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

In order to make my determination, I reviewed the following policies and other documentation:

- PREA Policy 3C-4
- Sexual Risk Notification
- Authorization to Disclose Information

Interviews, Document and Site Review:

The PREA Policy 3C-4 cites this standard. Upon admission to MRCC, case managers review the inmate’s PREA Rating and complete the Temporary Leave/Transfer form, which inquires whether inmate has experienced sexual victimization or perpetration. If it indicates a “yes,” the case manager is charged with notifying behavioral health. This was articulated by the case manager that was interviewed. A memo was provided pre-audit that explained that the follow-up meeting with a medical or mental health practitioner is recorded in ELITE case notes.

The auditor reviewed documentation of an inmate who had reported previous sexual victimization upon admission, which showed the referral to behavioral health. MRCC reported that 100% of inmates that disclosed victimization upon admission were offered a follow up.

An authorization form was provided for auditor review which is used for disclosing inmate information.

Information related to sexual victimization and/or abusiveness seemed to be limited to staff with a need to know and that was well articulated throughout interviews with random and specialized staff.

Corrective Action:

None.

Standard 115.82 Access to emergency medical and mental health services

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

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

In order to make my determination, I reviewed the following policies and other documentation:

- PREA Policy 3C-4
- North Dakota Century Code 12.1-34-07

Interviews, Document and Site Review:

The PREA Policy cites all provisions of this standard. Medical and behavioral health staff were aware of the requirements of this standard as indicated in interviews. It was clear that inmates would be offered timely and unimpeded access to emergency medical and behavioral health. North Dakota Century Code 12.1-34-07 was provided and states, “the costs incurred by a health care facility or health care professional for performing the acute forensic medical examination or any preliminary medical screening examination may not be charged, either directly or through a third-party payer, to the alleged victim.”

Corrective Action:

None.

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

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

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

In order to make my determination, I reviewed the following policies and other documentation:

- PREA Policy 3C-4
- North Dakota Century Code 12.1-34-07

Interviews, Document and Site Review:

The PREA Policy 3C-4 cites all provisions of this standard.

MRCC is responsive to medical and mental health needs of victims of sexual abuse. Behavioral health and medical staff at the facility meet on-going needs and medical treatment is obtained through the Sanford Hospital if needed. Interviews with medical and behavioral health staff indicated that inmates who report sexual abuse are treated and evaluated very quickly once staff become aware of the report. They reported that the level of care is likely better than that of the community due to the availability and promptness of services. MRCC does not house female inmates, so provisions (d) and (e) are not applicable. Inmate victims of sexual abuse would initially be offered tests and treatment for STI’s as part of a forensic exam. Follow up would be offered at the facility by medical staff and in accordance with follow up instructions. As stated in policy and in North Dakota Century Code 12.1-34-07 (See 115.82), services are offered without cost to the victim. Regarding provision (h), mental health staff reported that a known inmate-on-inmate abuser would be removed from MRCC and evaluation would occur at NDSP. Appropriate treatment would be determined.

Corrective Action:

None.

Standard 115.86 Sexual abuse incident reviews

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

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

In order to make my determination, I reviewed the following policies and other documentation:

- PREA Policy 3C-4
- Sexual Abuse Incident Response Team (SAIRT) documentation
- Investigative files memo
- Memo to Wardens and PCM’s

Interviews, Document and Site Review:

The PREA Policy 3C-4 outlines the agency procedures for conducting sexual abuse incident reviews. It states, “The review team may include PREA coordinator, facility PREA compliance manager, behavioral health staff, investigator, and assigned facility staff. The results of the review will be provided to the warden.”

Policy 3C-4 also states that the SAIRT report will be submitted to “the PREA compliance manager, PREA Coordinator, Warden, Director of Operations, and Director of DOCR” as well as the following: “The facility warden shall provide a written response to the Director of DOCR within 60 days of receiving the findings report of the review team. The warden’s response must include an implementation plan of recommendations and the justification for not implementing recommendations. The report and response will be stored in the PREA drive.” Thus, the policy language exceeds the standard as does the practice of conducting incident reviews of both substantiated and unsubstantiated sexual abuse *and* sexual harassment.

The auditor reviewed documentation supporting the practice as set forth in policy. The facility conducts more than one review of each incident. Documentation provided showed that each incident was reviewed within 30 days after the completion of the investigation. Additionally, all six of the review requirements from the standard are considered during the review. All reviews are facilitated by the PREA Coordinator. Interviews and discussion with the PREA Coordinator and PREA Compliance Manager, as a member of the SAIRT, indicated that this is well institutionalized practice.

A memo document summarizing SAIRT activity for the agency was provided. For MRCC it stated the following:
MRCC-from 05/02/2015 to 11/01/2016 the MRCC SAIRT has reviewed 0 total incidents of sexual abuse. However, the facility did review all incidents of Sexual Harassment. During those reviews, the SAIRT found no evidence of indicated need for any of the requirements of 115. 86 d.1-5 or 115. 86 e. A SAIRT review for each incident is available per 115.86 d-6.

Corrective Action:

None.

Standard 115.87 Data collection

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

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

In order to make my determination, I reviewed the following policies and other documentation:

- PREA Policy 3C-4
- Survey of Sexual Victimization
- Data collection form

Interviews, Document and Site Review:

The PREA Policy 3C-4 cites each provision of this standard.

DOCR/MRCC collects data from every allegation of sexual abuse and sexual harassment using the definitions set forth in the PREA standards, which are also the definitions set forth in their policy. Data is collected, aggregated, and utilized in many ways. It is compiled in the Investigation Log that is maintained on an on-going basis and for the Survey of Sexual Victimization (SSV) on an annual basis. The PREA Coordinator is responsible for collecting and aggregating department data on at least an annual basis.

DOCR also collects sexual abuse data from each of the contracted facilities who house inmates for the department. A monthly email reminder is sent out to the contract facilities, and it is reported on a specific form. The auditor reviewed the form, as well as examples of data that had been reported.

Corrective Action:

None.

Standard 115.88 Data review for corrective action

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

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

In order to make my determination, I reviewed the following policies and other documentation:

- PREA Policy 3C-4
- 2014 Annual PREA Report
- 2015 Annual PREA Report
- Agency website
- Corrective action document

Interviews, Document and Site Review:

The PREA Policy cites each provision of this standard.

The auditor was provided with the agency’s Annual PREA Report. The report identifies problem areas, contains aggregated PREA data in graphs that illustrate comparative data from previous years. The report also identifies proposed corrective actions at the agency level and at the facility level. The report was written by the PREA Coordinator and was reviewed and approved by the agency director. Both the 2014 and 2015 Annual Reports are posted on the department’s public website: <http://www.nd.gov/docr/prea/mrcc.html>.

Corrective Action:

None.

Standard 115.89 Data storage, publication, and destruction

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

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

In order to make my determination, I reviewed the following policies and other documentation:

- PREA Policy 3C-4
- North Dakota Century Code 25.03-3-04
- Agency Website

Interviews, Document and Site Review:

The PREA Policy 3C-4 addresses this standard. It states that data is securely retained in the FileNet system, that they will be retained for at least 10 years, and “All case records associated with claims of sexual abuse, including incident reports, investigation reports, inmate information, case disposition, medical and counseling evaluation findings, and recommendations for post-release treatment and counseling will be retained in accordance with North Dakota statute.”

North Dakota Century Code 25.03-3-04 states that the records must be retained for 50 years.

Links to “PREA Information” for contracted facilities was also noted on the agency website. A review of the website was completed to ensure that no staff or inmate personal identifiers were posted. The website address is <http://www.nd.gov/doctr/prea/>.

Corrective Action:

None.

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.

Talia Huff

2/10/17

Auditor Signature

Date