

PREA AUDIT: AUDITOR'S SUMMARY REPORT

ADULT PRISONS & JAILS



Name of facility:	Missouri River Correctional Center		
Physical Address:	1800 48th Avenue S.W. Bismarck, ND 58506		
Date report submitted:	August 25, 2014		
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Date of facility visit:	July 23-25, 2014		
Facility Information			
Facility mailing address:	P.O. Box 5521 Bismarck, ND 58506		
Telephone number:	(701) 328-9696		
The facility is:	<input type="checkbox"/> Military <input type="checkbox"/> County <input type="checkbox"/> Federal <input type="checkbox"/> Private for profit <input type="checkbox"/> Municipal <input checked="" type="checkbox"/> State <input type="checkbox"/> Private not for profit		
Facility Type:	<input type="checkbox"/> Jail <input checked="" type="checkbox"/> Prison		
Name of PREA Compliance Manager:	Joseph Joyce	Title:	Deputy Warden of Transitional Facilities
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Agency Information			
Name of agency:	North Dakota Department of Corrections and Rehabilitation		
Governing authority or parent agency: (if applicable)	State of North Dakota		
Physical address:	3100 Railroad Avenue Bismarck, ND 58501		
Mailing address: (if different from above)			
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Agency Chief Executive Officer			
Name:	Leann Bertsch	Title:	Director of DOCR
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Agency –wide PREA Coordinator			
Name:	Steve Engen	Title:	Director of Staff Development and Facility Inspections
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AUDIT FINDINGS

NARRATIVE:

A PREA audit was conducted of the Missouri River Correctional Center (MRCC) on July 23-25, 2014. The audit was lead by certified PREA auditor Talia Labouchardiere and assisted by certified PREA auditor Ray Reno.

At least six weeks prior to the audit, MRCC posted an Auditor Notice provided by the auditor. In addition, documentation was provided to the auditor prior to the audit in a very organized fashion, to include the Pre-Audit Questionnaire and standard-by-standard files, which were provided via a thumb drive. Correspondence between the auditor and the PREA Coordinator and PREA Compliance Manager occurred throughout the pre-audit phase, and the auditor submitted a tentative audit schedule to the facility prior to arrival. The auditors reported to the North Dakota Department of Corrections and Rehabilitation (DOCR) central office to initiate the audit, hold an opening meeting with administration, and conduct agency-level interviews. Staff present for the opening meeting included: Leann Bertsch, Director; Colby Braun, Warden; Steve Engen, PREA Coordinator; Joseph Joyce, Deputy Warden. Knowledge of and investment in the implementation of PREA was evident throughout administration and management of the DOCR and reflected support from the top down. The PREA team then accompanied the auditors to the facility; the audit tour was conducted on July 23, 2014, and spanned the living unit and outer buildings, as well as the rest of the facility grounds. PREA signage was evident in places throughout the facility, although staff increased the number of signs upon the auditor's request, ensuring that reporting information was adequately visible for all inmates. Interviews of specialized staff, as well as random staff and inmates, were conducted July 23-24, 2014; 10 random inmates and 10 random staff (from all three shifts) were interviewed, in addition to the specialized staff and applicable targeted inmate interviews. There were no transgender or intersex inmates identified by staff or observed by the auditors. Indubitably, staff and inmates were able to 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 (2) was very low and did not seem to be contradicted by the interviews of staff or inmates (indicating that there were reports unaccounted for). There were 2 investigations of sexual harassment to review; one inmate-on-inmate and one staff-on inmate allegation. MRCC trained staff handle administrative, while the Highway Patrol conducts any criminal investigations. The MRCC, and the DOCR alike, seem to have a very strong and beneficial relationship with the Highway Patrol, which was commended. Allegations seemed to be addressed promptly and appropriately, per the PREA standards, using a uniform evidence protocol.

Additional documentation was reviewed and some enhancements were made, upon auditor request, while on-site. A PREA team was available at all times for auditor clarification and consultation.

On the whole, auditors found Missouri River Correctional Center to be substantially compliant with knowledgeable and supportive leadership. There were ___ standards that were close, but did not meet substantial compliance.

DESCRIPTION OF FACILITY CHARACTERISTICS

Missouri River Correctional Center (MRCC) is a 12-dorm 151-bed facility (single housing unit) located

south of Bismarck, North Dakota, along the Missouri River; it was constructed and opened in 1992. Aside from the housing unit, there are approximately 30 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. 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.

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.

Number of standards exceeded: 5

Number of standards met: 36

Number of standards not met: 0

Number of standards not applicable: 2

115.11	ZERO TOLERANCE OF SEXUAL ABUSE AND SEXUAL HARASSMENT; PREA COORDINATOR
<input type="checkbox"/> Exceeds Standard (substantially exceeds requirement of standard) <input checked="" type="checkbox"/> Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period) <input type="checkbox"/> Does Not Meet Standard (requires corrective action)	
Auditor comments, including corrective actions needed if does not meet standard	
<p>The agency has written policy (3C-4) mandating zero tolerance towards all forms of sexual abuse and sexual harassment. They have outlined prevention, detection and responding to allegations/incidents throughout the policy (3C-4). Policy cites the standards mostly verbatim, but also incorporates agency and facility specific method of compliance.</p> <p>The PREA Coordinator and PREA Compliance Manager stated they have sufficient time and authority to develop and oversee compliance. The PREA Coordinator reports directly to the Director of, and the PREA Compliance Manager reports directly to the Warden, which indicates proper authority. The DOCR has 3 adult prisons and each has a designated PREA Compliance Manager.</p>	
115.12	CONTRACTING WITH OTHER ENTITIES FOR THE CONFINEMENT OF INMATES
<input type="checkbox"/> Exceeds Standard (substantially exceeds requirement of standard) <input checked="" type="checkbox"/> Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period) <input type="checkbox"/> Does Not Meet Standard (requires corrective action)	
Auditor comments, including corrective actions needed if does not meet standard	
<p>ND DOCR contracts for the confinement of inmates and has policy (3C-4) stating the PREA requirements. Auditor reviewed contracts (Center Incorporated, Grand Forks County Correctional, and SWMCCC), which do include the required PREA language. In addition, the Warden reported that the contracted facilities all have audits scheduled prior to January 2015, with which the agency will monitor PREA compliance.</p>	
115.13	SUPERVISION AND MONITORING
<input type="checkbox"/> Exceeds Standard (substantially exceeds requirement of standard) <input checked="" type="checkbox"/> Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period) <input type="checkbox"/> Does Not Meet Standard (requires corrective action)	
Auditor comments, including corrective actions needed if does not meet standard	
<p>A staffing plan and staffing review was provided, indicating a thorough review of the required provisions and moreover, the intent of the standard. The Staffing Plan was distributed to all MRCC staff by the Deputy Warden (PREA Compliance Manager); the PREA Coordinator created the Staffing Review. Policy (3C-4) mandates the staffing plan as well as unannounced rounds by supervisory staff. Unannounced rounds were confirmed through staff interviews and witnessed in the Captain's Log. MRCC has also implemented a Staffing Plan Deviation form to document deviations from the staffing plan and the reason for such deviations.</p>	
115.14	YOUTHFUL INMATES
<input type="checkbox"/> Exceeds Standard (substantially exceeds requirement of standard) <input type="checkbox"/> Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period) <input type="checkbox"/> Does Not Meet Standard (requires corrective action)	

Not Applicable

Auditor comments, including corrective actions needed if does not meet standard

This standard is not applicable. Neither MRCC nor the agency houses youthful inmates, as evidenced by policy (3C-4) and the Director's directive (revised March 2014). Any inmate under the age of 18 shall be placed in the North Dakota Youth Correctional Center.

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 comments, including corrective actions needed if does not meet standard

MRCC does not conduct cross-gender strip searches or any visual body cavity searches. Facility policy (3C-4) requires that all cross-gender strip searches be documented, though there were no instances of such to document.

Policy 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. Staff and inmate interviews corroborated this to be practice; inmates reported that staff are respectful in that, and that they have adequate privacy for those functions. Through staff interviews, it was reported that female staff will announce "Female on unit" at the beginning of shift, and some reported that a female staff would announce again if she left and then came back on the unit and "especially if [the inmate was] in the bathroom."

Shower stalls are divided and provide privacy via curtains; there are no cameras that view directly into the living units or bathroom areas.

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 comments, including corrective actions needed if does not meet standard

Policy (3C-4) provides for disabled inmates to benefit from efforts to prevent, detect, and respond to sexual abuse and sexual harassment. Title II eligible inmates are not eligible for placement at MRCC, as it is more of a work camp and the facility is not equipped. 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. If the need arises, 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 any limited English proficient inmates. Auditors were provided with an invoice as evidence of the service's use. In addition, the auditor called the service to verify. It appeared to be user-friendly and covered a wide range of language services that were available in a very prompt manner. The inmate handbook is also available in Spanish.

It was noted during the tour that PREA signs were only posted in English. The day following the tour, the facility had taken measures to post signs and PREA information in Spanish as well.

Agency policy prohibits the use inmate interpreters and was also corroborated through staff and inmate interviews.

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)

Auditor comments, including corrective actions needed if does not meet standard

The agency, facility, and policy (3C-4 and 1C-9) prohibits 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. This was evidenced by auditor review of documentation and background checks (to include contractors) while on –site. The facility has had little turnover altogether and hadn’t hired anyone in the reporting period who had prior institutional employers. However, in the event that is to happen, they have a form letter with which to request the information. Regarding providing information, upon request from another institution, about a former employee’s involvement in substantiated allegations of sexual abuse or sexual harassment, there have been no such requests, though, policy supports this practice should it occur and a letter has been created for this use.

Regarding 115.17(f), auditors reviewed a Human Resources questionnaire which includes these required questions. The PREA Coordinator reports that this was put into practice June 30, 2014 and policy language was amended in July 2014 to reflect this as well.

115.18 | UPGRADES TO FACILITIES AND TECHNOLOGY

- 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 comments, including corrective actions needed if does not meet standard

There have been no substantial expansions or facility modifications since August 20, 2012. Policy (3C-4) includes the requirements of 115.18. In addition, the PREA Coordinator asserted that he would be involved with any expansion or modification and such changes would also undergo a review process. The Director (Agency Head) spoke knowledgeably about the requirements of PREA and the consideration that would be given to any expansion or facility modification.

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 comments, including corrective actions needed if does not meet standard

DOCR/MRCC conduct administrative investigations, while they have collaborated with the Highway Patrol for criminal investigations. Agency policy (3A-12) outlines the uniform evidence protocol for facility staff. Staff were able to articulate their responsibilities per this policy. Auditors were also provided with the protocol used by the Highway Patrol: 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, “GLBT” – gay, lesbian, bisexual, transgender). Upon documentation review prior to the audit, the auditor asked about the existence of an MOU between the agency and the Highway Patrol. It did not exist. However, the PREA Coordinator was able to establish a signed MOU.

In this reporting period, there were no reports of sexual abuse and thus no forensic exams warranted. Policy (3C-4) and established procedures allow for victims of sexual abuse to be offered forensic medical exams, outside the facility at no cost. These exams are conducted by a SANE at Sanford Hospital. Auditor conducted a phone interview with the SANE nurse. It was evident that the PREA Coordinator has established a good working relationship with the SANE nurse and had substantial communication with her. In the event that an inmate arrives for a forensic exam, a victim advocate is automatically offered to the victim. The agency’s efforts to secure further victim services from a community-based organization have been futile thus far, though documentation was provided to the auditor of the correspondence to try and secure these services. The local rape crisis center reported that their current funding would not allow them to offer the service. Nevertheless, the PREA Coordinator seemed to have a good working relationship with the representative from the rape crisis center and, once funds or other means allows, these services seem to be in reach.

The effort that has been made to collaborate with these external stakeholders (Highway Patrol, SANE, rape crisis center) exceeds expectations and has truly been valuable and beneficial to the agency and thus the inmate population. Although further work can be done to provide and extend victim services to the population, this groundwork lays the foundation to do so.

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 comments, including corrective actions needed if does not meet standard

The agency and facility ensure that an investigation is completed for all allegations of sexual abuse and sexual harassment. The facility conducts administrative investigations while the Highway Patrol conducts criminal investigations. There were few reports made and thus few reports for auditor review. There were 2 reports of sexual harassment during the reporting period, which all resulted in administrative investigations.

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 comments, including corrective actions needed if does not meet standard

All ten required training elements of 115.31(a) were reviewed by auditors in agency policy (3C-4), as well as in the training curriculum. Staff are aware of the zero tolerance policy for sexual abuse and harassment and were able to articulate their responsibilities under the agency policy. Training curriculum and records were provided and reviewed. It was noted by the auditor that staff verification of training did not specify that they received “and understood” the training. The verbiage

was amended and implemented by the PREA Coordinator while auditors were on site.

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 comments, including corrective actions needed if does not meet standard

DOCR policy directive (1G-1) states that in addition to orientation all volunteers, “Will also complete the DOCR approved PREA training and acknowledge that they understand and agree to comply with all PREA requirements prior to inmate exposure.” Auditors were provided the lesson plan used for all staff, contractors, and volunteers. Per policy (3C-4) the PREA Compliance Manager is charged with ensuring that all contractors and volunteers are trained on the agency’s zero-tolerance policy, which is available on the DOCR internet, is repeated every 2 years, and is tracked in a DOCR database.

The auditor conducted a phone interview of a chosen contractor, who was able to articulate his responsibilities pursuant to DOCR policy in regard to sexual abuse and sexual harassment.

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 comments, including corrective actions needed if does not meet standard

Prior to arrival at MRCC and pursuant to policy, inmates receive initial PREA orientation at the reception facility (North Dakota State Penitentiary). Upon transfer to MRCC, they watch a PREA video and PowerPoint presentation. Inmates and intake staff were able to corroborate policy and practice. Inmates 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. Not all were aware of *all* the methods of reporting and did not express working knowledge of the hotline procedure, but it is likely because it had not been needed and/or because staff report is an easier and very reliable method of report.

Auditors did note that the inmate handbook did not contain PREA information, nor did the MRCC Unit Plan handout. The PREA Coordinator reported that a new revision of the handbook was in process and showed auditors PREA verbiage that was being proposed. The PREA Compliance Manager asserted that he would incorporate PREA language in the MRCC Unit Plan written material as well, so that inmates had that information provided to them in written form that could be available to them at all times.

As stated in auditor comments in 115.16 above, “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. If the need arises, 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 any limited English proficient inmates. Auditors were provided with an invoice as evidence of the service’s use. In addition, the auditor called the service to verify. It appeared to be a user-friendly and covered a wide

range of language services that were available in a very prompt manner. The inmate handbook is also available in Spanish.

It was noted during the tour that PREA signs were only posted in English. The day following the tour, the facility had taken measures to post signs and PREA information in Spanish as well.

Agency policy prohibits the use inmate interpreters and was also corroborated through staff and inmate interviews.”

Inmates sign a form that covers all of orientation. However, they sign it prior to actually receiving the information and do not acknowledge that they understand. Auditors did not feel like this adequately demonstrated compliance with 115.33(e). This was rectified by creating a separate form that accounts specifically for the PREA portion of orientation.

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 comments, including corrective actions needed if does not meet standard

Auditors felt like the agency exceeded this standard. Agency investigators (responsible for administrative investigations) have completed the online NIC specialized training for investigators. The agency also hired a consultant to deliver additional specialized training for agency investigators, as well as the Highway Patrol investigators (responsible for criminal investigations). 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. Auditors reviewed training materials and documentation, which addressed all required training elements.

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 comments, including corrective actions needed if does not meet standard

Policy (3C-4) mandates specialized training for medical and mental health staff. Medical and mental health staff completed the respective online NIC course. Medical staff employed by the agency do not conduct forensic exams. Auditors reviewed certificates of completion for this training.

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 comments, including corrective actions needed if does not meet standard

Agency policy (3C-4) mandates a “mental health screening must be completed within 24 hours of admission and upon transfer to another DOC facility for risk of being sexually abused by other inmates

or being sexually abusive toward other inmates.” Inmates are generally screened same day as admission to MRCC. A case manager completes Mental Health Screening-PREA Questions, which accounts for inmates’ physical build, previous incarceration, intellectual (developmental) disabilities, physical impairments, perception of sexual identity and gender identity, and whether the inmate had been a victim of sexual abuse or sexual harassment. This form is then hand-delivered to mental health staff. The case manager also electronically completed the Mental Health Screening. This instrument accounts for various (non-sexual) mental health questions, observations and inmate dispositions, and any previous charges or convictions of sexual offenses. Inmates identified as high risk, with a history of sexually assaultive behavior, are assessed by a qualified staff member and monitored and counseled. When an inmate has a charge or conviction of a sexual offense, a Sexual Risk Notification is completed and reviewed by mental health. A multi-disciplinary team then reviews the case to determine sexual aggressiveness and potentially create an alert in iTAG, flagging the inmate as such. On the contrary, in the event there are concerns regarding an inmate’s ability to protect himself against sexual victimization, a Vulnerable Risk Notification is completed and reviewed by mental health. A multi-disciplinary team then reviews the case to determine sexual vulnerability and potentially create an alert in iTAG, flagging the inmate as such.

Agency policy (3C-4) requires inmates to be re-assessed when warranted. There were no such instances for auditors to review since there had been no such referrals, requests, or incidents. Policy (3C-4) also asserts, “DOCR maintains within iTAG and FileNet that limits access to DOCR staff and ensures information is not exploited to the inmate’s detriment by staff or other inmates. Staff are required to follow the DOCR confidentiality agreement.”

MRCC does not detain inmates solely for civil immigration purposes.

Auditors spent considerable time evaluating and understanding this screening process as it seemed somewhat complicated. Auditors also noted that two of the required elements were missing from the screening process: whether the inmate’s criminal history was exclusively non-violent and whether there were prior convictions for violent offenses. Additionally, the existence, intent, and purpose of the screening was not evidenced during staff interviews. For instance, case managers conduct the mental health screening, but did not necessarily equate it to a screening for victimization and abusiveness, and that its purpose is to keep separate sexually vulnerable inmates from sexually aggressive inmates. At the same time, the auditors felt like the end goal was being met; vulnerable inmates were not being subjected and/or isolated with sexually abusive inmates.

Since the on-site portion of the audit, the PREA Coordinator reported to the auditors that screening forms have been created; an Initial Assessment-Re-Assessment and a 24 hour Intake-Transfer PREA Screening. The agency is operationalizing these new forms and reports that all MRCC inmates will be assessed using the Initial Assessment by Sept. 30, 2104. Also, from August 25, 2014, all inmates upon intake are being assessed using the new forms. Policy has also been updated to direct the use of these new forms. Inmates will now be given a PREA rating upon completion of the Initial Assessment. In terms of corrective action, the screening form would need to reflect the two missing elements and provide auditors with sufficient demonstration of institutionalization of this process. Incorporating these forms will be a beneficial enhancement and may also allow for the increased awareness among staff, of the intent and purpose of the screening.

Update 10/10/2014:

MRCC and NDDOCR have implemented new screening forms to assess inmate victimization and

abusiveness; 24-Hour Intake/Transfer Assessment and Initial Assessment/Re-assessment. These revised screening forms reflect the 2 missing elements of 115.41(d) & (e). Beyond the revision of these screening forms, DOCR has enhanced their screening process, policy language, and implemented staff training and a PREA Rating Assessment Manual in relation to the process. The new process assigns every inmate upon intake a "PREA rating," which designates an inmate as one of the following: KV (Known Victim), PV (Potential Victim, UN (Unrestricted), PA (Potential Aggressor, or KA (Known Aggressor). The PREA rating is then entered into iTag. Additionally, DOCR and MRCC have implemented a housing plan that specifies appropriate housing in an effort to separate inmates deemed as high risk for victimization from those deemed as high risk for abusiveness.

With the review of the new and revised screening materials and process as well as a breakdown of all inmates PREA ratings, the auditors feel that DOCR and MRCC have institutionalized this and exceeded the expectations of the auditors.

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 comments, including corrective actions needed if does not meet standard

Policy (3C-4) asserts that "housing assignments are made accordingly" to the screening for victimization and abusiveness and that "staff will review alerts within iTAG to keep separate inmates who have been identified as high-risk of being sexually victimized from inmates identified as high-risk of being sexually abusive..." Staff at MRCC, namely the Deputy Warden, are heavily involved in the selection and screening process of inmates being considered for placement at MRCC. By the nature of the facility and the intense screening, and as reported to auditors, inmates flagged as sexually aggressive in iTAG are not eligible for placement at MRCC.

There were no transgender or intersex inmates placed at MRCC. Auditors did not observe any potential transgender, nor were any reported throughout the interviews. However, staff seemed to know the policy and expectations regarding transgender/intersex inmates should one be admitted. Transgender/intersex inmates would have the opportunity to shower separately by nature of the separate shower stalls for all inmates.

Auditors felt like the facility does consider the screening information in housing, bed, program, education, and work assignments, though they do recommend strengthening this practice and increasing staff awareness and practical use of the screening information. Particularly as it relates to agency-wide use at other/larger facilities, this will be imperative and crucial to the inmate population.

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)
- Not applicable

Auditor comments, including corrective actions needed if does not meet standard

By the nature of MRCC, which houses minimum-custody inmates only, there is no capability for isolating

inmates.

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 comments, including corrective actions needed if does not meet standard

In practice and policy (3C-4), the agency/facility provides multiple avenues of inmate reporting: verbally or in writing to staff; fill out Highway Patrol form' call hotline, 3rd party. Inmates reported that they were very comfortable in reporting to staff, which seemed to be their first and preferred method of report (should the need arise). There were no indications from inmate or staff interviews that inmates were reporting but receiving no response, which corroborated the low number of reports. Interviews indicated a high level of trust and confidence in reporting to staff. 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 any reports in the same manner, according to policy.

Inmates have avenues to report external to the agency via the hotline, Just Detention International, and 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. The PREA Coordinator reported that monthly checks are done to ensure that the information is still posted and visible.

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 comments, including corrective actions needed if does not meet standard

DOCR is not exempt from this standard, as they do have administrative procedures to address inmate grievances. Policy (3C-4) contains language from 115.52 regarding sexual abuse grievances. The auditors noted, however, that the grievance procedures issued to inmates, in the inmate handbook, contradicted the standard by imposing a time limit on grievances in general (and did not distinguish sexual abuse grievances); it also speaks of attempting an informal resolution. Once noted by auditors, the PREA Coordinator took measures to rectify this contradiction by distinguishing sexual abuse grievances in the proposed new edition of the inmate handbook, to include mandated response times and procedures to address emergency grievances, per 115.52(f)(2).

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 comments, including corrective actions needed if does not meet standard

Policy (3C-4) contains language from 115.53. The facility has 8x10 inch signs posted on bulletin boards throughout the unit which contain the toll free telephone number for the National Sexual Assault Hotline. Additionally, the address for Just Detention International is also posted to allow inmates the

opportunity to write should they feel the need. Information regarding the level of confidentiality is given to all inmates during their orientation to the DOCR. MRCC does not have a formal MOU with a local community service provider. However, the PREA Coordinator did provide written correspondence with the local victim service provider documenting attempts to solidify these services. The agency is not currently able to secure these services at this time due to financial constraints. There are no inmates held at MRCC solely for civil immigration purposes.

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 comments, including corrective actions needed if does not meet standard

Policy (3C-4) contains language from 115.54. Information on how to report sexual harassment and sexual abuse is given to all inmates during their orientation to the DOCR and also upon entry to MRCC. This includes information on third-party reporting. The agency/facility investigates third-party reports like any other report, per their policy. Third-party reporting information is also posted on the agency's website. Signage throughout the unit lets the inmates know they can report as a third party and is also posted in the visitation area. During inmate interviews, the vast majority of the inmates knew they could make third-party reports.

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 comments, including corrective actions needed if does not meet standard

Policy (3C-4) contains language from 115.61. Information requiring all staff, contractors, and volunteers to report immediately any knowledge, suspicion or information regarding sexual abuse or sexual harassment occurring in the facility was found in the department's PREA training lesson plan, dated 06/02/2014. There was evidence of staff signatures on training sign-in sheets indicating they attended PREA training. During staff interviews, all staff knew of their responsibility to immediately report incidents of sexual abuse or sexual harassment, and not sharing information with others without a need to know. Medical and mental health staff interviewed knew of their responsibility to report and knew to inform inmates of the limitations on confidentiality. Invariably, both staff and offenders mentioned that if something PREA-related were to occur, they would report directly to Deputy Warden Joyce.

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 comments, including corrective actions needed if does not meet standard

Policy (3C-4) contains language from 115.62. All staff interviewed, as well as the Agency Head and Warden, reported they would take immediate action if they learned an inmate was subject to a substantial risk of imminent sexual abuse. However, there were no instances of sexual abuse known to have occurred during the reporting period.

115.63	REPORTING TO OTHER CONFINEMENT FACILITIES
<input type="checkbox"/> Exceeds Standard (substantially exceeds requirement of standard) <input checked="" type="checkbox"/> Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period) <input type="checkbox"/> Does Not Meet Standard (requires corrective action)	
Auditor comments, including corrective actions needed if does not meet standard	
Policy (3C-4) contains language from 115.63. There were no instances reported or documented during the reporting period where an inmate reported being sexually abused at another facility. Staff interviewed said that if someone were to make such a report, they would tell Deputy Warden Joyce. The Warden was aware of his responsibilities to report should this occur.	
115.64	STAFF FIRST RESPONDER DUTIES
<input type="checkbox"/> Exceeds Standard (substantially exceeds requirement of standard) <input checked="" type="checkbox"/> Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period) <input type="checkbox"/> Does Not Meet Standard (requires corrective action)	
Auditor comments, including corrective actions needed if does not meet standard	
Policy (3C-4) contains language from 115.64 outlining first responder duties. The PREA training lesson plan outlines the duties and responsibilities for first responders and medical staff in the event an inmate is sexually abused. However, there were no cases of inmate sexual abuse during the reporting period. Security staff interviewed knew they needed to separate the victim from the abuser and keep him safe. Staff knew to protect the crime scene, if there was one, and not to take any action that might destroy evidence. All staff interviewed, both uniform and non-uniform, knew to keep the victim separate from the perpetrator and to keep the victim safe. It was obvious that staff were trained in first responder duties, even though there have been no reports of sexual abuse during the reporting period.	
115.65	COORDINATED RESPONSE
<input type="checkbox"/> Exceeds Standard (substantially exceeds requirement of standard) <input checked="" type="checkbox"/> Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period) <input type="checkbox"/> Does Not Meet Standard (requires corrective action)	
Auditor comments, including corrective actions needed if does not meet standard	
Policy (3C-4) is the facility's written institutional plan of coordinated actions in the case of inmate sexual abuse. This plan accounts for coordination among staff first responders, medical and mental health staff, investigators, and facility leadership. 3C-4 contains very detailed direction distinguishing the duties of each staff member. In addition, "DOCR Coordinated Response to PREA Incidents" is a one-page handout that outlines immediate response on the floor for first responders, supervisors, medical, mental health, investigators, PCM, and PREA Coordinator. The PREA training lesson plan also clearly outlines these actions, to be taken by staff in the event of sexual abuse of an inmate.	
115.66	PRESERVATION OF ABILITY TO PROTECT INMATES FROM CONTACT WITH ABUSERS
<input type="checkbox"/> Exceeds Standard (substantially exceeds requirement of standard) <input checked="" type="checkbox"/> Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period) <input type="checkbox"/> Does Not Meet Standard (requires corrective action)	
Auditor comments, including corrective actions needed if does not meet standard	

Policy (3C-4) contains language from 115.66. North Dakota state law does not allow for collective bargaining. Through interviews with facility leadership, it was discerned that management has the ability to remove alleged staff sexual abusers from contact with inmates pending the outcome of an investigation, or of a determination of whether and to what extent discipline is warranted.

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 comments, including corrective actions needed if does not meet standard

Policy (3C-4) outlines the steps to be taken to protect staff and inmates who report sexual abuse or sexual harassment from retaliation by other staff or inmates. While PREA standards only require staff to monitor for cases of sexual abuse, MRCC policy also covers monitoring for sexual harassment cases. Policy designates the PCM as the person charged with monitoring for signs of possible retaliation for 90 days, including monthly status checks. Policy also outlines the protection measures available.

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 comments, including corrective actions needed if does not meet standard

Policy (3C-4) includes language from 115.68. There is no segregation unit available at the MRCC. If needed, someone could be separated by movement to the 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.

115.71 CRIMINAL AND 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 comments, including corrective actions needed if does not meet standard

Policy (3C-4) contains information on the investigative process. MRCC conducts its own investigations, to a point. If criminal charges are indicated, the MRCC investigation is turned over to the North Dakota Highway Patrol, who will then respond to the facility and take over as lead investigators. Policy (3C-4) requires investigations to be initiated within 24 hours of receiving the report and are responded to in the same prompt manner whether it is a third party or anonymous report. MRCC has 20 staff who have received training as investigators, including all shift supervisors. Additionally, investigators from the NDHP attended the required PREA investigator training (pursuant to 115.34) and all were able to articulate their duties in preserving and protecting direct and circumstantial evidence. In interviews with the facility PCM, it was learned that there were no sexual abuse investigations initiated within the past 12 months. The PCM indicated that if an investigation were to be initiated, the facility would not require an inmate to submit to a polygraph as part of the investigation. In the event of a criminal allegation, the Highway Patrol would conduct the investigation and the relationship that has been established there would enable the agency to remain informed of the case progress.

115.72	EVIDENTIARY STANDARDS FOR ADMINISTRATIVE INVESTIGATIONS
<input type="checkbox"/> Exceeds Standard (substantially exceeds requirement of standard) <input checked="" type="checkbox"/> Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period) <input type="checkbox"/> Does Not Meet Standard (requires corrective action)	
Auditor comments, including corrective actions needed if does not meet standard	
Based on policy (3C-4), the facility does not employ a standard higher than a preponderance of evidence as proof in determining whether allegations of sexual abuse or sexual harassment are substantiated.	
115.73	REPORTING TO INMATES
<input type="checkbox"/> Exceeds Standard (substantially exceeds requirement of standard) <input checked="" type="checkbox"/> Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period) <input type="checkbox"/> Does Not Meet Standard (requires corrective action)	
Auditor comments, including corrective actions needed if does not meet standard	
Policy (3C-4) contains the procedure for meeting 115.73. At the conclusion of an investigation, a designated staff member will inform the inmate verbally whether the allegation was substantiated, unsubstantiated, or unfounded. The designated staff member will deliver in person a written statement of finding requiring the inmate's signature. If the case is alleged to be sexual abuse committed by a staff member, information is also given about where the staff member is assigned, or if the staff member leaves facility employment. Documentation was provided regarding the two cases of sexual harassment that was alleged during the past 12 months, showing that the inmate was given notice of the case's determination on the Notice of PREA Investigation Status form.	
115.76	DISCIPLINARY SANCTIONS FOR STAFF
<input type="checkbox"/> Exceeds Standard (substantially exceeds requirement of standard) <input checked="" type="checkbox"/> Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period) <input type="checkbox"/> Does Not Meet Standard (requires corrective action)	
Auditor comments, including corrective actions needed if does not meet standard	
Policy (3C-4) contains information regarding 115.76. The PREA staff training lesson plan contains clear language documenting this standard. Interviews with the facility Warden and PCM indicate there have been no staff disciplinary actions or terminations for violation of the PREA policy in the past 12 months.	
115.77	CORRECTIVE ACTION FOR CONTRACTORS AND VOLUNTEERS
<input type="checkbox"/> Exceeds Standard (substantially exceeds requirement of standard) <input checked="" type="checkbox"/> Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period) <input type="checkbox"/> Does Not Meet Standard (requires corrective action)	
Auditor comments, including corrective actions needed if does not meet standard	
Policy (3C-4) contains information regarding 115.76. The PREA staff training lesson plan contains clear language documenting this standard. Interviews with the facility Warden and PCM indicate there have been no contractor or volunteer disciplinary actions or terminations for violation of the PREA policy in the past 12 months.	
115.78	DISCIPLINARY SANCTIONS FOR INMATES
<input type="checkbox"/> Exceeds Standard (substantially exceeds requirement of standard)	

<input checked="" type="checkbox"/>	Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
<input type="checkbox"/>	Does Not Meet Standard (requires corrective action)
Auditor comments, including corrective actions needed if does not meet standard	
Policy (3C-4) contains information regarding the disciplinary sanctions for inmates who are found guilty of committing inmate-on-inmate sexual abuse. This policy also mandates that the disciplinary process consider inmate's mental illness or mental disabilities. Information on inmate disciplinary sanctions is given to inmates as part of the facility orientation process upon entry into the DOCR and also upon transfer to MRCC. There were no cases of substantiated inmate-on-inmate sexual abuse documented during the reporting period. In interviews with the facility PCM, it was learned that all sexual activity between inmates is prohibited. During interviews with inmates, nearly all were aware of the prohibition of sexual activity between inmates, and between inmates and staff.	
115.81	MEDICAL AND MENTAL HEALTH SCREENINGS; HISTORY OF SEXUAL ABUSE
<input type="checkbox"/>	Exceeds Standard (substantially exceeds requirement of standard)
<input checked="" type="checkbox"/>	Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
<input type="checkbox"/>	Does Not Meet Standard (requires corrective action)
Auditor comments, including corrective actions needed if does not meet standard	
Policy (3C-4) contains the policy pursuant to standard 115.81. All inmates are assessed upon entry into the DOCR to determine if the inmate previously experienced sexual abuse or ever perpetrated sexual abuse. If the answer to either question is yes, the inmate is scheduled for a follow up meeting with a mental health staff within 14 days, though, it generally happens much sooner. Facility staff who were interviewed said that a case file screening was also completed prior to transferring inmates to the MRCC. MRCC does not accept inmates directly from the community; rather, inmates first go to NDSP where they are assessed and screened prior to placement at MRCC. None of the random inmate interviews indicated the inmate had a history of being a victim or perpetrator of sexual abuse. In fact, the screening that is done prior to transfer to MRCC would have screened out inmates who had a history of perpetrating sexual abuse. Interviews with the PCM indicated that if an inmate were to disclose being the victim or perpetrator of sexual abuse, they would be scheduled for a follow up meeting with mental health within 14 days. In the event that an inmate perpetrated sexual abuse, the inmate would immediately transferred out of MRCC.	
115.82	ACCESS TO EMERGENCY MEDICAL AND MENTAL HEALTH SERVICES
<input type="checkbox"/>	Exceeds Standard (substantially exceeds requirement of standard)
<input checked="" type="checkbox"/>	Meets Standard (substantial compliance; complies in all material ways with the standard for the relevant review period)
<input type="checkbox"/>	Does Not Meet Standard (requires corrective action)
Auditor comments, including corrective actions needed if does not meet standard	
Policy (3C-4) describes the procedure for standard 115.82. Interviews with the facility Warden and PCM indicate there were no reports of sexual abuse reported by inmates during the past 12 months. The policy details that if there were to be a report of sexual abuse, the inmate victim would receive timely unimpeded access to medical and mental health services including testing for sexually transmitted diseases at no cost to the inmate.	
115.83	ONGOING MEDICAL AND MENTAL HEALTH CARE FOR SEXUAL ABUSE VICTIMS AND ABUSERS
<input type="checkbox"/>	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 comments, including corrective actions needed if does not meet standard

Policy (3C-4) describes the procedure for meeting standard 115.83. Interviews with the Warden and PCM indicate that upon arrival at DOCR, the inmate will participate in an orientation class where PREA is explained and inmates are interviewed individually by their case manager to determine if they have a history of being sexually abused while incarcerated. Furthermore, inmates are questioned again upon placement at MRCC. If the inmate reports being sexually abused while incarcerated, they will be referred to mental health staff for appropriate follow up services. If it is discovered the inmate has a history of being an abuser, the facility will schedule a mental health evaluation within 60 days. Staff were not able to recollect any case where an inmate disclosed sexual predation. Should a victim of sexual abuse be discovered, their access to medical and mental health treatment would likely even exceed that of the community level, by virtue of the direct access and close proximity and availability of staff.

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 comments, including corrective actions needed if does not meet standard

Policy (3C-4) describes the procedure for meeting standard 115.86 There have been no sexual abuse investigations conducted at MRCC within the past 12 months, for auditors to review.

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 comments, including corrective actions needed if does not meet standard

Policy (3C-4) describes the collection of uniform data by the PREA Coordinator. Data is collected and reported on BJS Survey of Sexual Violence in addition to maintaining data in the State Risk Management Incident Report Data system. Policy and practice indicated that data is collected annually, at a minimum. Auditors reviewed agency data and were provided data collected from contracted facilities also.

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 comments, including corrective actions needed if does not meet standard

Policy (3C-4) outlines the PREA Coordinator's responsibilities in collecting and aggregating data and preparing an annual report, pursuant to 115.88. Data was available and was reviewed by auditors on the agency's website. Auditor noted that there was no identified problem areas or corrective action

mentioned. It was explained by the PREA Coordinator that no corrective action had been identified because there had been no reports of sexual abuse. Being the first audit in the first audit cycle, it is understandable that an annual report with comparisons and corrective action was not available. Regardless, it is suggested that the agency take note of corrective action potentially necessary in all areas of the agency's PREA efforts; i.e. policy enhancements, physical plant barriers, increasing signage or staff/inmate PREA awareness or other aspects that may be non-related to actual instances of sexual abuse.

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 comments, including corrective actions needed if does not meet standard

Agency policy (3C-4) and practice assert that data is securely retained in the FileNet Administrator. Data is available via NDDOCR's website and can be viewed by the public. There contains no personal information.

AUDITOR CERTIFICATION:

The auditor certifies that the contents of the report are accurate to the best of his/her knowledge and no conflict of interest exists with respect to his or her ability to conduct an audit of agency under review.



10/14/14

Auditor Signature

Date