

# PREA AUDIT: AUDITOR'S FINAL REPORT COMMUNITY CONFINEMENT FACILITIES



**[Following information to be populated automatically from pre-audit questionnaire]**

<b>Name of facility:</b>	Pre-Release and Reentry Services		
<b>Physical address:</b>	11651 Nebel Street, Rockville, MD 20852		
<b>Date report submitted:</b>	May 7, 2020		
<b>Auditor Information</b>			
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<b>Date of facility visit:</b>	February 17 – 19, 2018		
<b>Facility Information</b>			
<b>Facility mailing address: (if different from above)</b>			
<b>Telephone number:</b>	(240) 773-4200		
<b>The facility is:</b>	<input type="checkbox"/> Military	<input checked="" type="checkbox"/> County	<input type="checkbox"/> Federal
	<input type="checkbox"/> Private for profit	<input type="checkbox"/> Municipal	<input type="checkbox"/> State
	<input type="checkbox"/> Private not for profit		
<b>Facility Type:</b>	<input type="checkbox"/> Jail	<input type="checkbox"/> Prison <input checked="" type="checkbox"/> Community Confinement Facility	
<b>Name of PREA Compliance Manager:</b>	Ben Stevenson		<b>Title:</b> Deputy Chief Security & Facilities
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<b>Agency Information</b>			
<b>Name of agency:</b>	Montgomery County Department of Correction and Rehabilitation		
<b>Governing authority or parent agency: (if applicable)</b>			

<b>Physical address:</b>	22880 Whelan Lane, Boyds, Maryland 20841		
<b>Mailing address:</b> <i>(if different from above)</i>			
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<b>Agency Chief Executive Officer:</b>			
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<b>Agency-Wide PREA Coordinator</b>			
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## AUDIT FINDINGS

### NARRATIVE:

The PREA Audit of the Montgomery County, Maryland, Pre-Release and Reentry Services (PRRS) was conducted from March 7 -9, 2018. The designated auditor was Charles J. Kehoe. Mr. Kehoe was assisted by David Haasenritter. Mr. Haasenritter is also a Certified PREA Auditor. The auditors wish to extend their deepest appreciation to Robert I. Green, Director of the Montgomery County Department of Corrections and Rehabilitation and Angela Talley, Division Chief of Community Corrections and the entire PRRS staff for the professionalism, hospitality, and kindness that was shown to them during the entire audit.

The auditors also wish to compliment the Montgomery County Department of Correction and Rehabilitation (DOCR) PREA Coordinator, Deputy Warden Gale Starkey, PRRS PREA Manager, Deputy Chief of Programs and Services, Ben Stevenson, and Deputy Chief of Security and Facilities, Ivan Downing, for the excellent work they are organizing the electronic files that were provided to the auditors in advance of the audit. This enabled the audit to move forward very efficiently.

The designated auditors previously interviewed the Director of the DOCR, Robert L.Green and the Deputy Warden Gale Starkey, the PREA Coordinator, as part of the audit for the Montgomery County Detention Facility and the Montgomery County Correctional Facility.

The auditor arrived at the facility at 8:00 a.m. and briefly met the top administrative staff. An Entrance Meeting was held at 8:15 a.m. on March 7, 2018. Division Chief, Angela Talley; Deputy Chief of Programs and Services, Ben Stevenson; Deputy Chief of Security and Facilities, Ivan Downing; and eight other administrative staff were in attendance. Chief Talley called the meeting to order and welcomed the auditor. She then gave the auditor an overview of the PRRS. Chief Talley said that the former Unit 1 and the staff locker room were converted into office space for the Pre-Trial Program. The Pre-Trial Program had been renting space at another location and since the PRRS population had declined the DOCR could save Montgomery County money by putting Pre-Trial Services under the same roof with the PRRS. The Chief also explained that Unit 2 was reconfigured to accommodate male and female

residents in different sections of the unit. The Chief added that a new roof and a new dietary service are coming soon. The food service area will also be remodeled and new ADA access projects have also been approved for construction.

The Chief said that since the number of residents from the Federal Bureau of Prisons (FBOP) and the U.S. Probation Service (USPS) have declined, the facility can take more Montgomery County residents. She added that 71% of the offenders in the reentry program are in the PRRS.

The Chief stated that the count for that morning was 116 offenders. Of that total, 114 were residents in the PRRS and two were on home confinement/electronic monitoring. There are residents from the FBOP and the USPS in the facility, 8 men and one woman. The other 107 residents are considered "Local offenders" offenders with the majority coming from the DOCR. Of this group, 97 are men and 10 are women. The average length of stay is 90 days; the minimum length of stay is 5 days; and the maximum length of stay is 12 months. Residents who are gainfully employed are required to pay 20% of their income, per pay day, for their room and board.

Admissions usually occur on Sundays with orientation and training. The PRRS takes individuals with all offense types, except escape. The philosophy is that offenders who can be safely and legally managed in the community, and are returning to the community, can benefit from PRRS and should be given the opportunity for a successful transition. The program provides a comprehensive range of services that focus on treatment and life skills, including employment and education.

Chief Talley stated that DOCR's unconditional commitment to the Prison Rape Elimination Act (PREA) has become a part of the fabric of the Department and its divisions that the agency has embedded the Department's Zero Tolerance Policy in every division and all staff and offenders are aware of the DOCR's commitment to a Zero Tolerance Policy. She said all allegations of sexual harassment and/or sexual assault are investigated. Allegations of sexual abuse are investigated by the Montgomery County Police Department. There were no allegations of sexual abuse or sexual harassment in 2017. One investigation of sexual harassment that occurred in 2016 was reviewed.

Chief Talley also told the auditor that the DOCR has blended training curriculums from the National Institute of Corrections, the American Correctional Association, the Department of Justice and the PREA Resource Center in with their own training program and the training which is required by the Maryland Correctional Training Commission. The DOCR program is a very thorough training and staff development training curriculum.

The auditor thanked everyone for their commitment to PREA and for scheduling this PREA audit. The auditor said that David Haasenritter would be joining the audit about noon that day as the second auditor. The auditor thanked Mr. Downing for the flash drive with the standards files and related documents. The auditor then reviewed the audit schedule.

The Entrance Meeting ended at 9:06 a.m.

The auditor was given a list of staff and residents in the facility and identified random staff and residents and specialized staff and targeted residents he and Mr. Haasenritter would interview. The list was given to Mr. Stevenson and Mr. Downing so the interviews could be scheduled.

Following the Entrance Meeting, the site review of the facility began at 9:30 a.m. The site review was conducted by Deputy Chief Stevenson and Shift Supervisor Jasper Ezeigbor, Jr. With one exception, the Notice of the Audit was posted in locations throughout the facility. The one exception was on the female housing unit. Staff and residents reported that they had seen the notices posted earlier. The notice was replaced during the site review.

The PRRS facility is located in a business area of Rockville, Maryland which has seen an increase in residential properties over the last several years. The physical plant of the building is in good condition and the overall appearance fits nicely into the local surroundings.

The main entry point is at the front desk which serves as the central check-in for residents and visitors. Random searches are conducted at this point. The agency's Zero Tolerance Policy notice is posted here and visitors acknowledge that they are aware of the Zero Tolerance Policy and the requirement to report any sexual abuse or harassment. Other PREA literature and brochures are located in the lobby.

Also in the front of the building is the central services center where staff can monitor all cameras and where residents check in and out of the facility. Administrative staff offices are located in this part of the building. Adjacent to the front section is a large multi-purpose room which serves as the career resource center, the visiting area, and the dining room. Several smaller computer rooms surround this area. Residents have complete access to the Internet for employment information and other job related and career information. The computers are closely monitored by staff. Residents who are not working are required to spend most of their waking hours in the resource center. The resource center is open daily from 8:00 a.m. to 4:30 p.m. Visitation is open. Literacy and GED classes are provided. In the evening, group meetings are held in the multi-purpose area, including programs for those residents referred by the Drug Court. The auditor was told that a major remodeling of the multi-purpose room/dining area and the food service preparation area would begin in the immediate future. As was the case when Unit 1 was repurposed into Pre-Trial Services offices, PREA standards and sexual safety were taken into consideration in the design stages.

On the other side of the lobby, the area that was Unit 1 was remodeled and is now the home of the DOCR Pre-Trial Services Division. Pre-trial services supervise and monitor residents in the community through community supervision and electronic monitoring.

Residents are allowed to use cell phones issued by the PRRS and are responsible for fees related to the phones' purchase and use. The Deputy Chief said that access to cell phones has mitigated problems with contraband cell phones and are especially helpful to those residents who have jobs in the community. Residents understand the rules on the use of the phones and understand this is a privilege that is not to be abused.

There are 33 cameras throughout the facility, including housing units. The auditor observed the cameras and reviewed randomly selected days and hours. The cameras cover all essential areas without imposing on the privacy of residents. The auditor was told that cameras and recording equipment are replaced on an as needed basis. The auditor found the quality of the images to be very clear.

There are four separate housing units. Unit 1, the female housing unit, has 7 rooms and 14 beds. Unit 2 has 17 rooms and 33 beds. Unit 3 has 24 rooms and 46 beds. Unit 4 has 26 rooms and 50 beds. In

total, there are 74 rooms and 144 beds. Units 2, 3, and 4 have two levels. On Units 2 and 3 there is a case manager on the second level enabling direct access to residents. The Center has a mix of single, double, and triple occupancy rooms in each housing unit. Single occupancy rooms are reserved for residents in higher program phases or performance levels. Each living unit has a dayroom area and laundry facilities. Individual rooms have one, two, or three beds and a metal locker for each resident. In the male housing units, a bathroom with a shower is shared between two sleeping rooms. There are doors on both sides of the bathroom which enhance privacy. In Unit 1, every room has its own bathroom.

Across from Unit 3, there is a medical office and exam room. There is also a room at the end of the hall for the contract psychiatrist. Unit 4 is the newest of the units and was built in 1992. With the exception of repurposing the former space used by Unit 1, there have been no major renovations in several years. A few blind spots were noted in the kitchen area. The Deputy Chief of Security and Facilities said these blind spots were discussed during the remodeling design phase and will be addressed when the area is remodeled in the near future.

Staff knock on the door of a sleeping room before entering and staff of the opposite gender announce before entering a resident's room. Male staff and female staff are permitted on all units. However, male residents are not permitted on Unit 1 without staff escort. Staff inspect all sleeping rooms on a daily basis.

PREA signage is seen throughout the facility and is posted in English and Spanish. There is also signage that instructs the reader how to call for emotional support if the person has been the survivor of sexual abuse.

Minimum shift coverage for Resident Supervisors is four staff members on midnight shifts, 6 on day shifts, and 6 on evening shift although the staffing numbers typically exceed these minimum levels. In addition to the 24/7/365 awake coverage provided by Case Managers, the program includes 15 Correctional Specialist IIIs who provide case management, work release, and assessment services. Most of these specialists work schedules that include a majority of evening work hours. Finally, the staff includes a nurse, two fiscal supervisors, four correctional dietary officers, two administrative support staff, and four managers. All staff have been trained on PREA Standards and operating procedures and the Resident Supervisor has had PREA Investigator Training.

The tour of the facility ended at 12:10 p.m.

Following the tour, the auditor began the interviews and reviews of investigations, personnel files, training records, residents' files, and other documents.

Twenty-three residents were randomly selected for targeted and random interviews. One of the residents identified for a random interview refused, thus the total number of inmates interviewed was 22. There were 14 random interviews, two interviews of residents who were disabled or LEP, one LGBTI resident, and five residents who disclosed a prior sexual victimization during screening. None of the residents in the RPPS had reported as sexual abuse. The auditor was assisted by an interpreter in the interview with the resident who was identified as LEP. All of the residents said they felt safe in the facility. All but two residents said staff make cross-gender announcements. All of the female residents reported that at times they had limited access to outside activities because of a lack of availability of

female to conduct pat-down searches. All the residents said they received PREA information during intake and all but one of the residents described how they would report an allegation of sexual abuse or sexual harassment. Four residents said they did not remember the names of the agencies that could provide emotional support, but knew there were posters with that information around the facility.

The auditors interviewed 27 staff, including 12 randomly selected resident supervisors from all shifts. The specialized staff interviewed included the Facility Director, the PCM, medical and mental health staff (2), a volunteer and a contractor, investigative staff (2), staff who screen for risk of victimization and abusiveness, an incident review team member, the designated staff member who monitors for retaliation, a security staff member who could act as a first responder, and two intake staff. All the random staff interviewed were very knowledgeable about PREA, how they could privately report an allegation of sexual abuse or sexual harassment, how to preserve evidence and crime scenes as first responders, and their responsibility to announce when entering a resident's room. The DOCR does not contract out for the placement of any of the PRRS residents. The DOCR Director, PREA Coordinator, Human Resources Director, and the Training Director were interviewed during the audit of the MCCF. It should be noted that since the PRRS is a relatively small program, several of the staff have multiple responsibilities. Thus, some individuals were interviewed more than once if their duties covered more than one specialized area. In total, the auditors conducted 49 interviews.

The auditors were impressed by what the resident supervisors and other staff know about PREA, the zero tolerance policy, resident rights regarding PREA, first response, and evidence collection. The auditor selected and examined six personnel files of PRRS staff. The files were very organized and contained all the necessary background check information. Eight training (electronic) records were also reviewed for written documentation regarding the required training and confirmation the employees understood the training. Eight offender files were also randomly selected and had the necessary documentation regarding their PREA training and understanding of the zero tolerance policy.

The PCM said there were no PREA allegations of sexual abuse or sexual harassment in the twelve month reporting period, prior to the audit and thus no investigations by the DOCR or the MCPD. The auditor did review one investigation of staff-on-resident sexual harassment that occurred two years earlier. During the course of the investigation, the employee resigned. The investigation was substantiated and the MCPD were notified. The resident was offered an appointment with a mental health provider, but declined. The victim was aware of the outcome of the investigation. The investigation was completed and documented in a timely fashion.

Health care services are provided to the residents by the contract physician and a nurse. If a resident needed a forensic exam, he/she would be transported to Shady Grove hospital by the Montgomery County Police Department. During interviews, the residents acknowledged that health care professionals are available. There are no residents in this facility with serious mental health issues.

The Exit Meeting was held on March 9, 2018 at 12:30 p.m. The Facility Director, the Deputy Chief of Programs and Services, the Deputy Chief of Security and Facilities, and Reentry Services Manager were in attendance. The auditor gave an overview of the audit and thanked the DOCR Director and his entire staff for their hard work and commitment to the Prison Rape Elimination Act. The auditor also thanked the Division Chief for PRRS for the hospitality, professionalism, and collaboration the staff at the PRRS exhibited for the three days of the audit. The auditor was very impressed with the positive climate of this facility. The programs and services that are offered to the residents are very comprehensive in

scope and focused on the resident's successful reintegration into the community. The staff spoke very favorably of the facility, the residents, and their colleagues in the Center and in the DOCR. The vast majority of the residents interviewed said this was a very good program. The residents also said they felt safe in this program. In closing the Exit Meeting, the auditor complimented Montgomery County for its outstanding correctional programs and for the superior collaboration that exists between County agencies and the public and private sectors.

The auditor could not give the facility a final finding, as there were two standards, 115.241 and 115.242 that required additional information and discussion with the PRRS PCM and administrators. During the report writing period, the auditors discussed these two standards they believed needed additional attention. While the staff convinced the auditors the facility obtained the required information, the auditors felt that with some improvements to the procedures and the screening forms compliance would be stronger.

The auditor finds that as of August 7, 2018, the Montgomery County Pre-Release and Reentry Services meets the requirements of the Prison Rape Elimination Act, Community Confinement Standards.

## **DESCRIPTION OF FACILITY CHARACTERISTICS:**

The Mission Statement of the PRRS states,

"The mission of the management and staff of the Montgomery County Pre-Release and Reentry Service's Pre-Release Center is to protect and serve the residents of Montgomery County and the general public by providing progressive and comprehensive correctional and rehabilitative services."

The PRRS Web site describes the facility as follows:

"The PRRS Division oversees the 144-bed Montgomery County Pre-Release Center (PRC) and provides evidenced-based transitional services to soon-to-be released sentenced and incarcerated adults from the county's two detention centers, and from state and federal prisons who are returning to Montgomery County and the larger Washington metropolitan area. Participants are released from incarceration with employment, treatment, family support, and the Division saves taxpayer money, reduces institutional crowding, and reduces recidivism and victimization rates. The Division advances the Department of Correction and Rehabilitation's mission to improve public safety and relies on a considerable body of research that demonstrates the cost-benefit advantages of releasing incarcerated individuals through a highly-structured community-based program. Since 1972, the Division has served over 17,850 men and women.

The PRC is a county-run, state-accredited correctional facility that also has received accreditation from the American Correctional Association. It is located in Rockville's rapidly growing White Flint area, and its proximity to jobs and transportation makes it an ideal site for the work release component of the program. In the 1990s, PRRS also developed "Home Confinement" which allows the Division to monitor clients using electronic technology (e.g. GPS) in their homes.

PRRS carefully screens and accepts only those individuals that it assesses can be legally and safely managed in a community setting. By law, all participants must have one year or less time remaining on their sentences, and PRRS is authorized to determine eligibility for Pre-Release status, but must receive judicial consent for the actual placement of the individual at the Pre-Release Center. While the program primarily serves those individuals with sentences of 18 months or less who are incarcerated in the County's detention centers, the Division has had contracts with the state and federal correctional systems to provide reentry services to their prisoners who are returning to this area and who are within 6 months of release. Thus, the Division serves individuals convicted of all offense types serving

sentences ranging from 10 days to 30 years with the one exception of excluding from eligibility those convicted of prior escape.

The Division requires program participants to work, pay room and board, file state and federal taxes, and address restitution and child support obligations. Each client works with a case manager and work release coordinator to develop an individualized reentry plan that addresses their specific transitional needs including employment, housing, treatment, family and medical services. Whenever possible, family members of participants are encouraged to participate in the development of the plan. The program employs other evidenced-based reentry practices including risk/needs assessments, cognitive behavioral programming, monitored community-based treatment, college/GED/Literacy classes, and a "work first" philosophy.

Additionally, the Division holds clients accountable for their location at all times, and residents only access the community with pre-approval. Through the use of the latest technologies in electronic monitoring, substance abuse testing, and by utilizing mobile teams of staff, residents are held to high standards of conduct and compliance. There is a zero-tolerance policy with regard to engaging in criminal activity, possessing drugs and alcohol, and accessing the community at locations and times that have not been approved. Individuals found in violation of such policies are immediately returned to secure detention. The few escapes that do occur each year are vigorously prosecuted, and consequently, the rate of escape is among the lowest of any work release program in the country. Most of the escapes involve individuals approved to leave the facility for work or community treatment and then who fail to return to the PRC as scheduled. All escapees in the program's 42 year history have been apprehended and most were returned to custody within 24 hours.

In 2013, the program served 683 individuals of which 85% successfully completed the program, and 80% were released with private-sector jobs. In total, the individuals in the Division earned over \$1.6 million and paid nearly \$300,000 in taxes, \$300,000 in family support, \$285,000 in program fees, and \$5,000 in restitution. From a system perspective, the program diverted 53,400 jail bed-days, and provided strong incentives for good institutional behavior in our detention centers. Recidivism rates defined as either a conviction or return to incarceration for a parole/probation violation are 9.3% within 1 year and 29.7% within 3 years using local and national data, which is 40% lower than nationally-measured rates. The Division's performance metrics are evaluated monthly, and the Division reports its performance and programmatic and security activities quarterly to an active Community Advisory Committee."

## **SUMMARY OF AUDIT FINDINGS:**

Number of standards exceeded:	7
Number of standards met:	31
Number of standards not met:	0
Non-applicable:	1



## **Prevention Planning**

### **§115.211 - 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)

DOCR policy 3000 – 64, effective December 30, 2016, is a written plan mandating zero tolerance towards all forms of sexual abuse and sexual harassment which outlines the agency's approach to preventing, detecting and responding to such conduct. The DOCR's Zero Tolerance Policy toward all forms of sexual abuse and sexual harassment is widely visible on posters and publications from the time one enters the Center. Additional PRRS policies that cover PREA include 2000-72 (effective August 1, 2017) Contraband Control and Search Plan; 2000-13 (effective August 1, 2017) Counts, Walk-Throughs and Onsite Verifications;

Montgomery County DOCR employs an upper-level, agency-wide PREA coordinator and a PREA compliance manager. The DOCR PREA Coordinator is Deputy Warden, Gale Starkey. The PREA Manager at the Center is Deputy Chief for Security and Facilities, Ivan Downing. Mr. Downing reports to the Division Chief and the PREA Coordinator on all PREA related matters. The PREA Coordinator and PREA Manager report that they have sufficient time and authority to develop, implement, and oversee the DOCR's efforts to comply with the PREA Standards.

Based on review of related policy, review of agency and facility organizational chart, and interviews with staff and residents, Montgomery County DOCR and Montgomery County (PRRS) meets the requirements of this standard.

### **§115.212 - Contracting with other entities for the confinement of residents**

- 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

The PRRS does not contract with private agencies or other entities for the confinement of residents. This standard is not applicable.

### **§115.213 – 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)

The Montgomery County Web site, "County Stat," describes the performance measures for all the county departments. The DOCR pages report aggregate data of PREA incidents, workforce availability, Net Annual Work Hours, various leave hours, overtime hours-worked, the agency budget, internal audits, and related information. The DOCR's Web site publishes information regarding the composition of the inmate population and programs and services that are offered to the offenders throughout a given day. The Web site also describes the state and national standards that are applicable to the DOCR. As previously stated, DOCR facilities are accredited by the American Correctional Association, the National Commission on Correctional Health Care, and State of Maryland. This information is reviewed annually by the management team to determine the adequacy of current resources, the need for additional resources, and the deployment of video monitoring and other monitoring technologies. Since 2014, the PREA Coordinator and PCMs have participated in the annual review.

By agency policy, there is always a minimum of four resident supervisors I, II or III on duty in the facility. The policy states,

#### "B. Minimum Shift Requirements

1. One Resident Supervisor III will on shift at all times in either support services or in one of the units. If there is more than one RS III on a shift, the RS III assigned to Support Services operation will serve as the On-Duty shift supervisor for all Resident Supervisors III and RS IIs.
2. PRRS shall maintain an absolute minimum complement of 4 Resident Supervisors (totaling RS I/II(s) and RS III(s) under normal operating conditions for all shifts."

At the end of every shift, the Resident Supervisor III completes a "PRRS Day Count Summary" report that would document any deviations from the staffing plan.. The auditor reviewed samples of these reports. The PRRS has no deviations from the plan for the last year. As previously noted, there are 33 cameras throughout the facility, including housing units. The cameras cover all essential areas without imposing on a resident's privacy.

### **§115.215 – 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)

The DOCR policy prohibits cross-gender searches except in exigent circumstances. Since there are always female and male staff in the PRC, the staff stated cross-gender searches are not something they would anticipate happening, even in an exigent circumstance. However, if it did happen it would have to be reported to the Division Chief and documented in writing. The audit team was provided a memo from Mr. Downing stating there had been no cross gender pat

searches of males or females during the audit cycle. "The Pre-Release Center prohibits cross-gender pat-down searches of female residents, absent exigent circumstances. There have been no cross-gender pat-down searches of female or male residents during this PREA Audit cycle."

The auditor reviewed the DOCR policy and procedures regarding cross-gender searches and searches of transgender residents, the curriculum for this training, the training log that documents the date and time employees received the training, and a video that demonstrates in detail how cross-gender searches and searches of transgender residents should be conducted and found that these meet the requirements of the standard.

As previously described, the sleeping rooms all have private bathrooms which allow the residents to shower, perform bodily functions, and change clothing without being viewed by staff of the opposite gender. The interviews with male and female residents confirmed that staff of the opposite gender do not view residents of the opposite gender while they shower, change clothes, perform bodily functions. The PRRS policy and procedure state that staff will announce their presence when entering an area where a resident may be changing, performing bodily functions or showering. The residents confirmed that opposite gender staff do announce their presence. During the site review, the auditor also observed this practice.

The policy and procedure regarding determining a transgender inmate's genital status is consistent with the standard.

The PRRS meets the requirements of the standard

**§115.216 – Residents with disabilities and residents 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)

Informational and educational materials for residents with disabilities are provided in ways that will enable the resident to understand the DOCR zero tolerance policy and related material and be able to make a claim of sexual abuse or sexual harassment, if necessary. For residents who are hearing impaired, Montgomery County has a contract for sign language interpreters. The DOCR has a contract for Visual Communication Services with TCS Interpreting, Inc (American Sign Language Interpreters) for those who are hearing impaired. Montgomery County also contracts for over-the-phone interpretation services from Voiance (over 200 languages are available). On-site interpreter services can also be provided by Certified Bilingual Employees. There is a County "Certified Employee" data base that is available to the DOCR. There are six (one french and five Spanish speaking staff) on the PRRS staff and additional 27 DOCR staff (to include Bengali, Korean, and Vietnamese) who are on the "Certified Employee" list.

Provisions are also made for residents who may be visually impaired.

For inmates who may be mentally disabled, the DOCR can also address their needs with individualized learning by designated staff.

It is Montgomery County's policy and the DOCR's policy to make reasonable modifications to ensure people with disabilities have access to all programs, services and activities provided by the County and the Department.

The PREA Guide on Sexual Abuse and Assault brochure is published in English and Spanish. The PREA orientation video is also in English and Spanish. Posters calling attention to the DOCR Zero Tolerance policy are also in English and Spanish.

The auditor interviewed one resident with very limited English speaking skills. The resident told the auditor, through a staff interpreter, that he receives help in understanding about PREA services and issues, from the staff who speak Spanish. The resident stated that he knew about the zero tolerance policy, and how to report an allegation if he was ever sexually abused or sexually harassed.

Montgomery County and its various agencies exceeds the minimum requirements for providing services to people with disabilities. Throughout the audit, the auditors witnessed the genuine concern and compassion the County and the DOCR have for people with disabilities. For these reasons, the auditor find the PRRS exceeds the requirements of this standard.

### **§115.217 – 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)

DOCR Policy 3000 – 41 (December 30, 2016) Applicant and Employee Background Investigations/Checks states, "A criminal record check is conducted on all new employees, contractors, and volunteers prior to their assuming duties to identify whether there is are (sic) criminal convictions that have a specific relationship top (sic) their job performance." Additionally, it provides a list of benchmarks that will disqualify applicants from the hiring process. The list is very comprehensive and includes investigations that reveal conduct or acts that require review under PREA standards.

The DOCR Human Resources office conducts background checks on all candidates for employment, as well as interns and volunteers. The background checks include FBI and Maryland criminal record checks. Persons who have applied for positions that involve regular contact with inmates also undergo a psychological screening. Contractor backgrounds are conducted by the Contracting Office or the County. Additionally there is a DOCR PRRS contractor PREA acknowledgment form that must be signed and it thoroughly covers all areas required. The DOCR keeps a log sheet of all vendors that identifies if the vendor needs a background check and if PREA is specifically mentioned in the vendor's contract. It is an easy to read form that is of considerable value. Contractors also sign the Overview for Contractors form which explains, in summary form, the key elements of PREA that would apply to contractors.

Criminal records checks are done on all employees on an annual basis.

An Assistant County Attorney, who serves as the counsel to the DOCR, rendered an opinion that Maryland law prohibits the DOCR from providing any information on substantiated allegations of sexual abuse or sexual harassment involving a former employee upon receiving a request from an institutional employer for whom such employee has applied to work, without a signed release from the employee. Standard 115.17 (h) requires the agency to provide the information without a release “unless prohibited by law.”

The auditor was also told, however, that correctional agencies in Maryland must report substantiated allegations of sexual abuse or sexual harassment to the Maryland Commission on Correctional Standards and that the Commission could provide that information to any institutional employer for whom such employee has applied to work, without a signed release from the employee.

The DOCR hiring process is one of the more comprehensive and restrictive the auditors have observed in meeting the PREA standards. For this reason, the auditors find the PRRS exceeds the standard.

### **§115.218 – 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)

The Facility Director told the auditor that in the design phase of the Pre-Trial Services space the PRRS administrators, the design team, and contractors always kept the PREA standards in the discussion. As an example, she said three cameras were added to the exterior of the building. The contractors and staff were also very conscious of not creating blindspots while construction was underway. When the female unit was moved, improvements were made to the lighting on the unit.

As the facility moves into the major renovation of the multi-purpose/visiting/dining and food service areas, discussions have been held regarding flow of the inmate “traffic” in those areas, potential for blindspots, and other hazards that could have a negative impact on sexual safety. Discussions were also held regarding how the construction workers would be trained on PREA issues. This project will take approximately 18 months. The Facility Director said PREA and sexual safety will continue as part of the discussion.

As a result of the new construction in the interior of the Center, there have also been some camera upgrades and upgrades to the recording equipment. A request has been made for additional cameras.

In the control area adjacent to the administrative area there is a panel with 36 screens that shows what all cameras are recording at that specific moment. The quality of the pictures is very clear.

## **Responsive Planning**

### **§115.221 – 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)

The DOCR will contact the Montgomery County Police Department if it is determined, by a Department internal investigation, that a criminal investigation is needed. The Police Department protocol will be followed during their investigation which is developmentally appropriate for youth. The Police Department currently uses the Child First interviewing protocols. Their sexual assault protocols were developed after 2011 and are comprehensive and authoritative. The Police Department ensures that the SANE service will be available at the Shady Grove Adventist Hospital as part of its criminal investigation. In addition, the County has a written contract with the Shady Grove Adventist Hospital to provide emergency and non-emergency medical services to offenders in the custody of the MCDOCR.

The MCPD investigators who would respond to an allegation of sexual assault at the PRRS have received the PREA Investigator training.

There is a written Memorandum of Understanding (MOU) between the MCPD and the MCDOCR which was signed on January 20, 2015 by the MCPD Chief and the MCDOCR Director. The MOU states that the MOU "is initiated to facilitate an agreement between the parties for services related to goals and implementation of Federal Prison Rape Elimination Act (PREA) mandates."

The Montgomery County Department of Health and Human Services Victim Assistance and Sexual Assault Program (VASAP), provides victim advocate services to the DOCR. VASAP meets the requirements of 42 U.S.C. 14043g (b)(2)(C). At the time of the audit, a draft Memorandum of Understanding was being discussed and shared among eight members of the Montgomery County Sexual Assault Response Team, including the MCPD and the DOCR. The MOU with Montgomery County Police Department designates MCPD to conduct all sexual abuse investigations and allow victim advocate to accompany and support the victim during forensic exams, and investigative interviews.

Staff interviews demonstrated staff knew how to react to a crime scene and properly handle physical evidence.

PRRS reported no sexual assaults during the reporting period.

### **§115.222 – 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)

DOCR policy 3000-64 requires that allegations of sexual assault be reported to the MCPD. All employees interviewed knew that sexual assaults would be investigated by the MCPD. The policy which states that criminal investigations of sexual assault will be investigated by the MCPD is posted in the lobby of the facility at the time of the audit.

The Montpomery County Department of Corrections and Rehabilitation website lists information reference of investigations of PREA allegations to include: "All PREA allegations that are criminal in nature are referred to the Montgomery County Police for investigation. The MCDOCR will cooperate with the investigation until it is completed; All administrative PREA investigations will be conducted by the MCDOCR assigned investigator; All investigators receive specialized training in sexual abuse investigations that occur in a confinement setting; and All substantiated allegations of sexual abuse and sexual assault committed by inmate/resident on inmate/resident or staff on inmate/resident are referred to the local District Attorney's Office for criminal prosecution."

The PCM said there were no PREA allegations of sexual abuse or sexual harassment in the twelve month reporting period, prior to the audit and thus no investigations by the DOCR or the MCPD. The auditor did review one investigation of staff-on-resident sexual harassment that occurred two years earlier. During the course of the investigation, the employee resigned. The investigation was substantiated and the MCPD were notified. The resident was offered an appointment with a mental health provider, but declined. The victim was aware of the outcome of the investigation. The investigation was completed and documented in a timely fashion.

Interviews with the Facility Director, two investigative staff, resident supervisors, and residents confirmed the PRRS ensures that an administrative and/or a criminal investigation is completed for all allegations of sexual abuse and sexual harassment.

## **Training and Education**

### **§115.231 – 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)

The DOCR policy states that PREA training is required of all staff and is incorporated in the agency's overall training strategy. Training is provided by the Maryland Police and Correctional Training Commissions (MPCTC) for new correctional employees and includes a section on PREA. The DOCR and the PRRS conduct annual training in multiple formats. Training includes tested classroom training; online training program sponsored by the National Institute of Corrections (NIC), the American Correctional Association (ACA), and other organizations, as required; and on-site training as needed. The DOCR maintains training records for all the training employees receive. The Training Director reviewed several automated training records with the auditor. Documentation from the Maryland Police and Correctional Training Commission documents the number of hours of training employees have on a specific subject and the employee's exam score. Employees must receive a minimum score of 70 to pass the test. This documents the employees have received and understand the material covered. There is other written documentation that employees have received and understand the PREA training when it is

provide within the DOCR. The Shift briefings are also used as opportunities to provide informal refresher training.

The auditor reviewed the curriculum, a PowerPoint PREA presentation, and video that instruct staff on the proper procedures for conducting cross-gender searches and searches of transgender inmates/residents. The material was found to be very comprehensive. The auditors interviewed the Director of Training during the DOCR PREA audit.

### **§115.232– 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)

PRRS ensures that all volunteers and contractors who have contact with inmates have been trained on their responsibilities under the agency's sexual abuse and sexual harassment prevention, detection, and response policies and procedures. The auditors reviewed the lesson plan and slides that are used for the training and determined they meet the standard.

When a contractor enters the Center, he/she is required to read a document that is part of the sign in sheet. This document is referred to as the "Overview for Contractors. This document includes the DOCR Zero Tolerance Policy and the PRRS Contractor Procedures regarding knocking and announcing their presence when entering an area where residents of the opposite gender are likely to be showering, changing clothes, or performing bodily functions. It also prohibits contractors from entering a resident's bedroom when the resident is present. Contractors can only enter areas pre-approved by PRRS staff. The form also defines sexual misconduct and sexual harassment. It also instructs the reader how to report a sexual abuse and how to avoid inappropriate relationships with residents. At the bottom of this form, it states, "My signature on this document acknowledges that I have read and understand the above information about PREA. All of my questions have been answered about PREA. I agree to comply with MDCOCR Policy 3000-64. MDCOCR's full policy is available upon request." A similar form is available for visitors who enter the facility.

The auditor interviewed the Coordinator of the Catholic Charities of Washington, DC. "Welcome Home Program." She said the purpose of this program is to help and encourage returning citizens (ex-offenders) as they reenter the community. She said the program includes 55 active and inactive mentors who work directly with the returning citizen. The Coordinator stated that when she came to the PRRS in January of 2016 she did the entire training as any new employee would do. She said contractors who work in direct contact with the residents go through very intensive training. She stated that she is also responsible for training the mentors on all the PREA issues. When she does orientation training once a month for volunteers and mentors it takes 45 to 60 minutes to describe the "Welcome Home Program" and the requirements of PREA, such as the DOCR Zero Tolerance Policy, mandatory reporting, and to whom a report would be made. Three times a year she provides more in-depth training for three and half to four-hours. PREA is a large part of that training, as well. Every Friday, the Coordinator meets with a new resident during his/her orientation to explain the program. She informs the resident that she is a mandatory reporter.



The auditor also interviewed an intern who is assigned to the PRRS. The intern said she received her PREA training during her orientation. She said a PowerPoint was presented, including a section on PREA. She said the presentation described the DOCR's Zero Tolerance Policy, what would be considered a PREA issue, how to maintain boundaries, and the reporting procedures if a person becomes aware of an allegation of sexual abuse or sexual harassment. She said there were other staff in the training from the Montgomery County Department of Health and Social Services and another intern. She said as an intern here, her duties include designing recreational trips for the residents and conducting surveys to learn more about the needs of the residents.

In total there are 10 different groups that bring volunteers into the PRRS.

The contractor and volunteer training is very detailed and based on the volunteer's and contractor's levels of contact with the residents. For this reason, the auditors find the facility exceeds the requirements of the standard.

### **§115.233 – Resident 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)

The DOCR provides PREA education to all new residents of the PRC during the initial intake process. The focus is on providing new residents with information on the DOCR's Zero Tolerance Policy, the resident's right to be free from sexual abuse or harassment, how to report abuse or harassment, and the resident's right to be free from retaliation. Within the first 72 hours following admission, a more detailed orientation is provided by PRRS PREA trained staff. In addition to the information provided at intake, the agency's procedures for responding to allegation of sexual abuse or sexual harassment are also stated. The orientation consists of a PowerPoint presentation with verbal interaction from a PREA trained staff member. Residents also see a PREA video "What You Need to Know about PREA (16 minutes) and are given the PREA Guide on Sexual Abuse and Assault and the resident handbook. Residents acknowledge in writing that they received the orientation and written materials. All of the materials are Bilingual and interpreters can be provided for languages the Bilingual materials do not cover.

Posters are posted throughout the facility in formats accessible to all residents to ensure that key information is continuously and readily available or visible to residents. Posters are constant reminder for residents on how they can report sexual abuse or sexual harassment and are clearly visible throughout the facility.

Interviews of the residents demonstrated the residents had a good knowledge of PREA, specifically how to report and they all said they received PREA information during intake. Review of intake paperwork demonstrated seven of eight residents received orientation at intake, the other resident received orientation but not during intake.

## **§115.234 – 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)

Four staff completed “PREA: Investigating Sexual Abuse in a Confinement Setting” training for PREA Investigators through NIC and five received investigator training through ACA. The MCPD also provided training for those selected to be trained as investigators in the DOCR. In total, over nine hours of training were provided. The agency provided documentation of training completed, through the Relias Learning training rosters. The auditor had reviewed the curriculum and training materials at the DOCR audit and found them to be very detailed.

Currently, there are five shift supervisors, two Deputy Chiefs, one Reentry Manager, and one accreditation manager who have all been trained as PREA Investigators. In addition, one Deputy Chief has completed the Advanced PREA Investigator Training from the National Institute of Corrections and the other has completed a three-day training from John E. Reid and Associates (Chicago, Illinois) on *The Reid Technique of Interviewing and Interrogation*.

## **§115.235 – 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)

The contract psychiatrist stated that he and the DOCR’s contract physician have had the basic PREA Training provided to all DOCR staff, the annual refresher training, contractor training and the specialized training required for medical and mental health care staff. The specialized training covered the medical and mental health requirements under PREA. He said the training consisted of a PowerPoint presentation and a question and answer session.

The auditor also interviewed the Nurse who confirmed that she receives the yearly PREA training and other specialized training. She said she also looks for training opportunities that she takes on her own time.

The auditors reviewed the training lesson plan and the PowerPoint presentation during this audit and found them to meet the standard.

## **Screening for Risk of Sexual Victimization and Abusiveness**

### **§115.241 – 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)

DOCR Policy 3000-64 AND *PRRS Policy 2000-20 System for Screening, Assessing, and Placing Residents into Pre-Release and Reentry Services Programs* clearly communicates the facility's responsibilities regarding intake screening and follow-up assessments. All residents are assessed during intake screening and upon transfer from the MCCF for their risk of being sexually abused by other residents or sexually abusive toward other residents. The PRRS uses three (3) objective screening instruments. The Level of Service Inventory is "a quantitative survey of offender attributes and their situations relevant to level of supervision and treatment decisions" that was developed for Multi-Health Systems, Inc. The TCU Institute of Behavioral Research, Criminal Thinking Scales is an assessment of criminal thinking. Lastly, the PRRS uses a Self-Report Personal History that was developed by the agency.

A resident's risk of victimization or abusiveness is reassessed within 30 days to determine if there has been any additional information that impacts on the resident's risk of sexual victimization or abusiveness. Per agency policy, the case manager will meet with new residents and complete the Resident Risk of Sexual Victimization and Abusiveness form and document that the form was completed in the case notes. Case managers also reassess a resident when new information is provided, an incident occurs or a referral is made. The auditors reviewed eight resident files and confirmed the assessments were made.

The DOCR policy states that residents will not be disciplined for refusing to answer or for not disclosing complete information in response to questions asked pursuant to paragraphs (d)(1), (d) (7), (d) (8), or(d) (9).

The PRRS has proper controls on the dissemination of the intake information, within the facility to insure that sensitive information is not exploited to the resident's detriment by staff or other residents.

### **§115.242 – 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)

The Reentry Assessment Specialist (RAS) will make a room assignment based on the information provided in the intake screening and assessment. In making the assignment, the RAS will consider the resident's risk of victimization and potential abusiveness. During the site review, the auditors observed the many different room configurations which enable the RAS to have choices in determining which room would provide the resident with the best safety. A transgender resident would be given a private room on Unit 2. Residents with special needs can be provided a single occupancy room, if indicated.

PRRS uses the color-coded Bed Capacity Chart for easy identification of residents who may be at risk.

The auditor interviewed one resident who identified as being gay. He stated they felt safe in the facility and he felt the staff treated him with respect.

### **§115.251 – Resident 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)

Residents are informed of the multiple ways they can report allegations of sexual abuse or harassment during their orientation. It is also stated in the PRRS Program Guidebook and in the PREA Guide on Sexual Abuse and Assault brochure. Residents are informed that they can tell staff, file a grievance or disclose an allegation through a third-party. Residents can also call 777-9855 for internal reporting or 1-855-273-5609 to speak with an outside third party. The DOCR has a contract with Northern Communications, Alternative Answers Message Centre that will take PREA allegation calls directly from residents, their families or third parties. Family members or friends can email or call DOCR or the PRRS on behalf of a resident; phone numbers are posted for the DOCR and the answering service on posters in the public areas and on the DOCR Web site. All callers may remain anonymous. The DOCR Web site also allows allegations of sexual abuse and sexual harassment to be by email via the DOCR Web site. Residents also have 24-hour, confidential, access to the Montgomery County Victim Assistance and Sexual Assault Program hotline at no cost to the resident, and additionally can call 911 to the Montgomery County Police Department.

When a resident is admitted to the PRRS program, he/she is issued a cellular phone so he/she can call the facility if he/she will be late returning to the facility from a job. Cell phones can also be used for personal calls, including calls made to report a sexual abuse or sexual harassment. Inmates interviewed knew different ways to report to include someone outside the PRRS.

Every resident interviewed described the multiple ways to report allegations of sexual abuse and sexual harassment.

DOCR policies and staff fliers provide information on PREA to include ways for staff to privately report sexual abuse and sexual harassment of residents. During interviews, staff knew who and how to privately report sexual abuse and sexual harassment of residents. The DOCR policy mandates that staff accept all reports of sexual assault and sexual harassment made verbally, in writing, anonymously and from third parties. Staff and resident interviews verified that they are aware that they can report verbally, in writing or through a report of a third party. Staff also verified that they have access to private reporting.

Because the DOCR has afforded so many different ways in which to report an allegation of sexual abuse and sexual harassment and has provided the residents and staff training on how to report PREA allegations, the auditors find the PRRS Exceeds the standard.

### **§115.252 – 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)

The DOCR Grievance procedure is consistent with the requirements of this standard.

MCDOCR Policy 3000-64, Section III. 13. Grievance/Discipline provides for special provisions for responding to grievances of an emergency nature, such as a substantial risk of imminent sexual abuse. It is the responsibility of the Division Chief to determine, within 48 hours after receipt of the grievance, if a grievance is an emergency. Emergency grievances must be resolved and a written response provided to the inmate/resident within five (5) calendar days. The initial response and final Department decision shall document the Department's determination whether the inmate/resident is in substantial risk of imminent sexual abuse or other danger and the action taken is response to the emergency grievance.

Section III. 13. B. states that the Department shall not impose a time limit on when an inmate/resident may submit a grievance regarding an allegation of sexual abuse.

Section C. does say that the DOCR may apply otherwise-applicable time limits on any portion of a grievance that does not allege an incident of sexual abuse.

Section D. states that the DOCR shall not require an inmate/resident to use any informal grievance process, or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse.

Section E. states that nothing in this section shall restrict the Department's ability to defend against a lawsuit filed by a resident on the ground that the applicable statute of limitations has expired.

Section F. says that the Department shall ensure that an inmate/resident who alleges sexual abuse may submit a grievance without submitting it to a staff member who is the subject of the complaint and such grievance is not referred to a staff member who is the subject of the complaint.

Section G. states that the Department shall issue a final agency decision on the merits of any portion of a grievance alleging sexual abuse within 90 days of the initial filing of the grievance. Computation of the 90-day time period shall not include time consumed by residents in preparing any administrative appeal. The DOCR may claim an extension of time to respond, of up to 70 days, if the normal time period for response is insufficient to make an appropriate decision. The agency shall notify the inmate/resident in writing of any such extension and provide a date by which a decision will be made.

Section H. says that at any level of the administrative process, including the final level, if the inmate/resident does not receive a response within the time allotted for reply, including any properly noticed extension, the resident may consider the absence of a response to be a denial at that level.

Section I states that third parties, including fellow residents, staff members, family members, attorneys, and outside advocates, shall be permitted to assist inmates/residents in filing

requests for administrative remedies relating to allegations of sexual abuse, and shall also be permitted to file such requests on behalf of inmates/residents.

Section J. says If a third party files such a request on behalf of a inmate/resident, the facility may require as a condition of processing the request that the alleged victim agree to have the request filed on his or her behalf, and may also require the alleged victim to personally pursue any subsequent steps in the administrative remedy process. If the inmate/resident declines to have the request filed on his or her behalf, the agency shall document the resident's decision.

Section K. states the DOCR may discipline a resident for filing a grievance related to alleged sexual abuse only where the agency demonstrates that the resident filed the grievance in bad faith.

The PCM reported, "In the past audit cycle, PRRS has not requested an extension of 90 days because a final decision had been reached. No grievances have been filed due to request of extension for final decision."

### **§115.253 – Resident 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)

The DOCR signage throughout the PRRS provides the phone numbers residents can call for outside victim advocates for emotional support services related to sexual abuse.

Maryland law MD Hum.Res.07.06.07.05 addresses program services that directly benefit crime victims.

The Montgomery County Department of Health and Human Services, Victim Assistance and Sexual Assault Program (VASAP), is the agency PRRS recommends to victims of sexual abuse or sexual harassment. A Memorandum of Understanding (MOU) between VASAP, the DOCR, and other agencies has been drafted and was being reviewed by the multiple parties involved at the time of the audit. Paragraph(c) of this standard states, "The agency shall maintain or attempt to enter into a memoranda of understanding or other agreements with community service providers that are able to provide inmates with confidential emotional support services related to sexual abuse." The auditors were given the draft copy of the MOU. Despite the fact that the MOU had not yet been signed by the parties, residents are provided the VASAP number to call for emotional support.

The Program Guidebook states,  
"Response:

Any resident making allegations of sexual misconduct, abuse or assault will be provided appropriate mental health counseling and medical services. Referrals to community resources can be coordinated. Within the detention facilities, the Chaplain is also available for counseling services."

The MCPD and the Shady Grove Hospital are also trained to facilitate the delivery of emotional support services to victims of sexual abuse through VASAP.

The interviews with the residents confirmed they were aware that emotional support services area available in the community. Because residents are issued cell phones, calls to VASAP are confidential.

### **§115.254 – 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)

The DOCR Web site provides clear information to the readers on PREA and provides information on the ways a third-party can file a PREA complaint. It also states that “All information is confidential.” Third parties can call the DOCR, they can call the Outside Answering Service, the can write to the DOCR PREA Office, and email an allegation of sexual abuse or sexual harassment. A form is available on the Web site that facilitates emailing allegations.

In addition, the brochure, [PREA Guide on Sexual Abuse and Assault](#), provides information on how a third-party can report sexual assault or misconduct and lists phone numbers and an email address for filing a complaint.

Posters are visible throughout the PRRS that encourage third parties to report if they are aware of a sexual assault or harassment allegations and lists contact information.

The CDOCR has taken a good practice and made it even better. For this reason, the auditors find the PRRS Exceed the standard.

### **Official Responses Following a Resident Report**

#### **§115.261 – 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)

The DOCR policies (3000 – 64) and procedures require all staff, including medical and mental health staff, to immediately report any knowledge, suspicion, or information regarding a sexual abuse or sexual harassment that occurred in a facility, whether or not the facility is part of the DOCR. Staff are also required to report any retaliation against residents or staff who report a sexual abuse or sexual harassment; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation. Staff are trained that the information a staff member passes on to superiors is confidential information and should be shared only with staff who have a designated “need to know.”

All the randomly selected staff explained their duty to report any allegation, suspicion, or information regarding sexual abuse or sexual harassment. The staff said they would report the

information to an RS III or a person in higher authority. The staff also acknowledged that the information is confidential beyond report to designated supervisors and those in a "need-to-know position (i.e. health care and mental health providers, investigators, etc.) The PRRS staff are very knowledgeable of all reporting requirements. As reported earlier in Standard 115.251, staff are aware of the ways to privately report information and allegations regarding sexual harassment and sexual abuse. Since there are no youthful offenders in this facility, 115.261(d) is not applicable.

DOCR policy is very specific about reporting all allegations of sexual abuse and harassment to the appropriate investigative body. If the allegation may be criminal in nature, it will be investigated by the Montgomery County Police Department. If the allegation is an administrative violation, it will be investigated by trained PREA investigators.

### **§115.262 – 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)

DOCR Policy 3000-64 states, "When personnel learn that an inmate is subject to a substantial risk of imminent sexual abuse, it shall take immediate action to protect the inmate."

During the intake process, the screening for risk of victimization and abusiveness is completed with the resident and is used to determine a resident's risk for sexual abuse victimization or abusiveness. If responses indicate that a resident may be at imminent risk, plans are made to ensure the resident is assigned to a room where he/she will not be at risk. Arrangements will also be made for the appropriate mental health screenings, if indicated.

During the interviews the Division Chief, randomly selected resident supervisors and non-security staff, all knew that if they were made aware that a resident was in imminent danger of being sexually assaulted the first priority would be to remove the resident from the immediate threat, place him/her in a safe area and notify the the appropriate RS III, Supervisor on Duty, Administrator on Call.

The PRRS PCM reported "In the past 12 months, PRRS has had no residents subject to a substantial risk of imminent sexual abuse."

### **§115.263 – 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)

The DOCR policy and procedures state that if there is an allegation that a resident was sexually abused at another facility, the facility administrator (Division Chief) would notify (within 72 hours) the head of the facility or appropriate office of the agency where the alleged abuse occurred. Such notification would be documented.



The Acting Division Chief of PRRS provided an example of when a PRRS resident reported a sexual abuse allegation that had happened when he was an inmate at a New York State correctional facility. The allegation was reported to the Warden of the New York State Correctional Facility on February 20, 2018. The New York Warden returned documentation to the PRRS that that notification was made and received.

### **§115.264 – 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)

DOCR Policy 3000-64 Section 5 states the procedures to follow when staff are first responders to an allegation of sexual abuse. Random interviews with the PRRS Resident Supervisors and non-security staff confirmed that all the staff knew exactly how to respond upon learning of an allegation that an inmate was sexually abused. Staff stated that these procedures are discussed, in great detail, during the annual PREA training and include separating the victim from the threat, securing the crime scene, preserving evidence from the alleged abuser and the victim, request the victim not take any action that would destroy physical evidence and ensure the alleged abuser does not take any action that would destroy physical evidence, and the notification of the PRRS administration and MCPD.

### **§115.265 – 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)

DOCR Policy 3000 – 64. 5 “Guidelines for Staff Action Following Receipt of an Allegation of Sexual Crime,” describes all the steps Resident Supervisors, non-security staff, health care and mental health providers, and other service providers must take at the PRRS, in an organized and collaborative way, to address an allegation of sexual abuse. The policy provides considerable detail. Resident Supervisors and other non-security staff reported they have been trained on their specific duties and are also aware of the responsibilities of other parties.

### **§115.266 – Preservation of ability to protect residents 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)

The auditor reviewed the Agreement Between Municipal & County Government Employees Organization, United Food and Commercial Workers, Local 1994, and Montgomery County Government, Montgomery County, Maryland Office, Professional, and Technical (OPT) and

Service, Labor, and Trades (SLT) Bargaining Units, For the Years July 1, 2017 through June 30, 2019. The Director said that under the contract the DOCR can separate or transfer an employee accused of sexual misconduct until the matter is resolved.

DOCR Policy 3000-64 states alleged staff or inmate abusers shall be have no contact with an alleged victim.

### **§115.267 – 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)

MCDOCR Policy 3000-64 Section's T., U., and V., describe the steps to be taken to prevent retaliation against residents and staff who report sexual abuse or sexual harassment or who cooperate with sexual abuse or sexual harassment investigations. When the auditor interviewed, the PRRS Division Chief, she stated that all employees and residents know that PRRS has a zero tolerance for retaliation in any form. She said while the investigation is going on, if the alleged abuser is a staff member he/she could be moved to another post or another shift. If the alleged abuser is another resident, the resident could be moved to the MDCDC or to another unit within PRRS if it is an allegation of sexual harassment. If the person being monitored is a staff member the Deputy Chief monitoring for retaliation could assign the person to a different post or to a different shift. His/her assignments, evaluations, shift assignments, and any disciplinary reports would be monitored for any changes. If the person being monitored is a resident, he/she could be moved to a different unit and their disciplinary reports, work assignments, caseworker notes, and progress would be monitored. Team meeting notes would also be reviewed. Monitoring continues for a minimum of 90 days unless the investigation is determined to be unfounded. Any victim (resident or employee) of retaliation will be offered emotional support from VASAP or another appropriate mental health agency.

The DOCR has designated the Deputy Chief for Programs and Services and the Deputy Chief of Security and Facility as the persons who monitor for retaliation. The auditor was also told if retaliation was suspected or reported the Resident Supervisors, Case Managers, and Administration would be given immediate notice. The Deputy Chief will monitor the resident's behavior, work assignments, and disciplinary write-ups, to document any changes. If an employee was the target of retaliation the PRRS Chief, the Investigator, and Accreditation Officer would be involved and could reassign the employee to a different post of shift.

DOCR Policy 3000-64 includes all monitoring for retaliation protocols.

### **Investigations**

#### **§115.271 – 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)

DOCR Policy 3000-64, Page 22-23, Sec. VII A. – L establishes the procedures for conducting PREA criminal and administrative investigations. This policy meets all the requirements of the standard. Additional investigative guidance comes from DOCR Policy 3000-31 “Investigator” The MOU with Montgomery County Police Department designates MCPD to conduct all sexual abuse investigations and allows a victim advocate to accompany and support the victim during forensic exams, investigative interviews, and provide emotional support.

When an allegation is made, a preliminary investigation is initiated in the PRRS by a trained PREA investigators. If it is believed that allegation is of a criminal nature, the Montgomery County Police Department is immediately notified and initiates a criminal investigation. If the allegation is not a criminal act, the matter becomes an administrative investigation and is conducted by one of the PREA trained investigators in the PRRS. Investigators in the Montgomery County Police Department have received PREA Investigator training.

As previously noted in Standard 115.234 there are nine staff who have completed PREA Investigator Training. The Deputy Chief for Programs and Services and the Deputy Chief for Security and Facilities are the two lead investigators and have had advanced training.

The Deputy Chief for Programs and Services Coordinator, who is one of the lead investigators, was interviewed by the auditor. The Deputy Chief said that the DOCR and the MCPD MOU illustrates the collaborative relationship between the departments that has existed for several years. He said the whenever the MCPD is called the response is immediate. He also said that the DOCR policy and procedures regarding PREA investigations are consistent with the PREA standards. The Deputy Chief said the if the MCPD conduct a criminal investigation of alleged sexual abuse at the PRRS, the role of the PRRS investigator would be to assist the MCPD by gathering any information or materials requested (i.e., video recordings, logs, witness lists, etc.). He also said he or the other lead investigator would conduct an administrative investigation to determine if staff negligence or misconduct contributed to the abuse. The Deputy Chief said that the decision to prosecute a case would be decided by the Montgomery County State’s Attorney based on the MCPD investigation. All investigations are documented in written reports and are retained consistent with PREA requirements and Maryland law. The PCM said there have been no PREA allegations of sexual abuse or sexual harassment in the twelve month reporting period, prior to the audit and thus no investigations by the DOCR or the MCPD. The auditor did review one investigation of staff-on-resident sexual harassment and the employee resigned. The investigation was substantiated. The victim was offered an appointment with a mental health provider, but declined. The victim was aware of the outcome of the investigation.

### **§115.272 – 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)

DOCR Policy 3000-64, Page 22, Sec. VII F. 3 states, “The Department shall impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual

abuse or sexual harassment are substantiated.” When the lead investigator was asked what standard of evidence was used in determining if an allegation is substantiated, he confirmed the policy that a preponderance of the evidence would determine whether allegations of sexual abuse or sexual harassment are substantiated.

### **§115.273 – Reporting to residents**

- 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)

The DOCR uses an “INMATE NOTIFICATION FORM” to inform residents who have been sexually abused of the status of the investigation and the status of the abuser. The PREA Manager will make the notifications in the event of a sexual abuse. There have been no reported cases of sexual abuse at the PRRS.

If a resident makes an allegation of sexual harassment, he/she is kept informed of the status of the administrative investigation and the person who allegedly harassed the resident. The reporting form is also used for administrative investigations. The inmate will be notified by the assigned investigator.

### **Discipline**

#### **§115.276 – 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)

The DOCR Policy 3000 – 64 Page 7 Sec. 2 C. states, “Staff shall be subject to disciplinary sanctions up to and including termination for violating agency sexual abuse or sexual harassment policies.”

The DOCR has a disciplinary process in place which is incorporated in the agreement with the Municipal and County Government Employees Organization (the Union).

The DOCR policy was amended and approved by the DOCR Director on December 19, 2014 and now reads “The Montgomery County Police would be notified of any terminations for violations of Department sexual abuse or sexual harassment policies, or resignations of staff that would have been terminated if not for their resignation, unless the activity clearly was not criminal.” The auditor was provided a copy of a resignation by a staff member who was under sexual harassment investigation involving a resident. That information was turned over to the MCPD.

Reference to notifying relevant licensing bodies is found in Policy 3000-64, 5.(e). page 15.

### **§115.277 – 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)

The DOCR Policy 3000 – 64 Page 7 Sec. 2 D. meets the requirements of the standard to include reporting to relevant licensing bodies for sexual abuse. Interviews with a volunteer and a contractor confirmed that they are informed of the DOCR policy regarding sexual misconduct that involves contractors and volunteers, during their orientation and training. The Division Chief reported to the auditor that if there was an allegation a contractor or volunteer was involved in a sexual abuse or sexual harassment allegation with a resident of the facility, the MCPD would be notified immediately. The PRRS reported that have been no allegations of sexual abuse by contractors or volunteers during the audit cycle.

### **§115.278 – Disciplinary sanctions for residents**

- 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)

All of the requirements of this standard are met in the MCDOCR policy 3000-64, Section III, in sub-sections 5, "Guidelines for Staff Action Following Receipt of an Allegation of Sexual Crime," p. 16 and sub-section 13, Grievance/Discipline, p. 19-20.

The interview with the Division Chief confirmed that if a resident is being investigated for sexual abuse, he or she would be returned to the MCCF and if the allegation is sunstantiated, the resident's placement at the PRRS will be revoked .

There have been no reported or substantiated allegations of sexual abuse in the PRRS during the reporting period.

### **§115.282 – 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)

DOCR Policy 3000 – 64. 5 "Guidelines for Staff Action Following Receipt of an Allegation of Sexual Crime," identifies all the steps Resident Supervisors, non-security staff and other service providers must take at the PRC, in an organized and collaborative way, to address an allegation of sexual abuse. Residents have unimpeded access to emergency medical treatment and crisis intervention services. Emergency Forensic Services provided by SAFE or SANE professionals would be provided by Shady Grove Adventist Hospital. Treatment services would be provided to the victim of a sexual assault without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.

## **§115.283 – 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)

The auditors interviewed two of the medical and mental health team members and were apprised of the medical and mental health protocols that are followed in the event of a sexual assault on a male or female inmate. The health care providers and mental health staff confirmed that all the requirements of this standard are met. The health care and mental health providers also said that these protocols are addressed in their training. The general consensus among the health care team is that the health care and mental health services exceed the level of care in the community.

Interviews with residents also confirmed that health care and mental health services are readily available and very helpful at the facility.

## **Data Collection and Review**

### **§115.286 – 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)

The MCDOCR has detailed procedures and forms that are used in the investigation of a sexual assault or sexual harassment allegation. The agency has a checklist that identifies all the forms that must be used in the process of an investigation. The PREA Investigative Report, the Inmate Notification Form, the PREA Incident Review Worksheet, and the PREA Retaliation Prevention and Protection Monitoring Worksheet are all completed for allegations of sexual assault and sexual harassment. These forms provide great detail during every step of the process.

The Division Chief told the auditor the Sexual Abuse Incident Review Team always includes herself, the two Deputy Chiefs (one being the PCM), the appropriate Residents Supervisor III and others as needed (i.e., the nurse, mental health professional, Reentry Services Manager). The Report from the team is forwarded to the Division Chief for final review and action and then sent to the DOCR Director and PREA Coordinator

During the audit, the PCM reported there were no sexual abuse allegations in the last 12 months.

All of the elements of the standard are covered in the PREA Incident Review Worksheet.

## **§115.287 – 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)

The DOCR exceeds the requirements of the standard. The agency uses an incident based tracking form that captures the information necessary to answer all the questions from the most recent version of the Survey of Sexual Violence and is collected from a variety of sources and is incorporated into the agency’s evaluations, planning, training strategies, and budgeting. The data was very helpful to the auditors during the audit.

Since the agency does not contract with any other private providers for residential care of offenders, section 115.287 (e) is not applicable.

The DOCR reports all its information on DOCR Web site in a tab titled DOCR Data Dashboard. This resource provides wide-ranging information about the DOCR operations, facilities, budget, inmates, employees, programs, services, and its commitment to PREA. This Dashboard is more evidence of the importance the DOCR and the Montgomery County leadership place on transparency. For this reason, the auditor finds the DOCR/PRRS Exceeds the standard.

**§115.288 – 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)

The DOCR reports all its information on DOCR Web site in a tab titled DOCR Data Dashboard. This resource provides wide-ranging information about the DOCR operations, facilities, budget, inmates, employees, programs, services, and its commitment to PREA. This Dashboard is more evidence of the importance the DOCR and the Montgomery County leadership place on transparency. For this reason, the auditor finds the DOCR/PRRS Exceeds the 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)

The Deputy Warden of Inmate Services is the designated PREA Coordinator for the DOCR and in that capacity she is responsible for all data collection and retention of sexual abuse allegations.

Hard copies of PREA investigations are maintained in the locked office of the Deputy Warden, which is on the secure side of the MCCF, and the files are further secured in a locked file cabinet. Electronic data maintained by the Deputy Warden is secure by use of a name and password on the computer.

Copies of the investigations and PREA data for the PRC are also maintained in a secure file in the Division Chief's Office.

**AUDITOR CERTIFICATION:**

The auditor certifies that the contents of the report are accurate to the best of his knowledge and no conflict of interest exists with respect to his ability to conduct an audit of the agency under review. The auditor finds that as of August 7, 2018, the Montgomery County Pre-Release and Reentry Services meets the requirements of the Prison Rape Elimination Act, Community Confinement Standards.



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Auditor Signature

May 7, 2020

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Date